

## AGENDA

### **CABINET**

**MONDAY, 29 JUNE 2020**

**4.00 PM**

**A VIRTUAL MEETING VIA ZOOM VIDEO  
CONFERENCING SYSTEM**

Committee Officer: Linda Albon  
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Due to the Covid-19 outbreak and the restrictions by the Government on gatherings of people, this meeting will be conducted remotely using the Zoom video conferencing system. There will be no access to this meeting at the Council offices but you can view the meeting on YouTube, apart from any items marked confidential.

Today's meeting can be viewed via the following YouTube link URL:  
[https://youtu.be/scoD9Pyn\\_eg](https://youtu.be/scoD9Pyn_eg)

- 1 To receive apologies for absence
- 2 Previous Minutes (Pages 3 - 4)  
  
To confirm the minutes of the previous meeting held 9 June 2020.
- 3 To report additional items for consideration which the Chairman deems urgent by virtue of the special circumstances to be now specified
- 4 To receive members' declaration of any interests under the Local Code of Conduct or any interest under the Code of Conduct on Planning Matters in respect of any item to be discussed at the meeting
- 5 Fenland Future Limited (Pages 5 - 34)

For Cabinet to approve the Articles of Association and Reserved Matters under its terms of reference 1.1(e) and 1.1(g).

6 Draft 6 Month Cabinet Forward Plan (Pages 35 - 36)

For information purposes.

7 Items which the Chairman has under item 3 deemed urgent

8 Freedom Leisure Contract (Pages 37 - 84)

For Cabinet to consider a further request for financial assistance from Freedom Leisure in line with the Council's leisure contract.

*Appendix II comprises exempt information - to exclude the public (including the press) from a meeting of a committee it is necessary for the following proposition to be moved and adopted: "that the public be excluded from the meeting for Items which involve the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 (as amended) as indicated".*

Friday, 19 June 2020

Members: Councillor C Boden (Chairman), Councillor Mrs J French (Vice-Chairman), Councillor I Benney, Councillor S Clark, Councillor Miss S Hoy, Councillor Mrs D Laws, Councillor P Murphy, Councillor C Seaton, Councillor S Tierney and Councillor S Wallwork

## CABINET



**TUESDAY, 9 JUNE 2020 - 4.00 PM**

**PRESENT:** Councillor C Boden (Chairman), Councillor Mrs J French (Vice-Chairman), Councillor I Benney, Councillor S Clark, Councillor Miss S Hoy, Councillor Mrs D Laws, Councillor P Murphy, Councillor C Seaton, Councillor S Tierney and Councillor S Wallwork

**OFFICERS IN ATTENDANCE:** Amy Brown (Chief Solicitor and Deputy Monitoring Officer), Peter Catchpole (Corporate Director and Chief Finance Officer), Sarah Gove (Housing & Communities Manager) *left after item CAB37/19*, Dan Horn (Head of Housing & Neighbourhood Services), Paul Medd (Chief Executive) and Carol Pilson (Corporate Director and Monitoring Officer)

Councillor Boden welcomed members of the public and press watching the livestream of the Cabinet meeting via YouTube due to Government guidance on social distancing. The meeting was held in accordance with the provision set out in the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 and with Fenland District Council's Virtual Meeting Protocol.

### **CAB36/19 PREVIOUS MINUTES**

The minutes of the previous meeting held 12 May 2020 were agreed.

### **CAB37/19 HOMELESSNESS ACTION PLAN**

Members considered the Homelessness Action Plan report presented by Councillor Hoy.

Councillor Hoy expressed her thanks to all the officers involved in working on the strategy, which has been a long process.

**Cabinet AGREED to approve the Homelessness and Rough Sleeping Strategy and action plan 2020-2022.**

### **CAB38/19 LATCO BUSINESS CASE**

Members considered the LATCo (Local Authority Trading Company) Business Case report presented by Councillor Boden.

Councillor Boden stated that the figures in Appendix 2 of the report were merely indicative of the way in which the business case would work for a series of property purchases and was not a forecast or an objective.

Councillor Boden further stated that approval was required for the Company name, which may need to be appended for any future subsidiaries; the chosen name being Fenland Future Ltd. Councillor Boden thanked Councillor Purser and Councillor Tierney as they had both independently made the suggestion.

Councillor Boden emphasised that the appointments made to the Board would not result in additional fees being paid to staff and Members would not be appointed as directors.

**Cabinet AGREED to:**

- **Approve the business case for the establishment of a LATCo;**
- **Approve the Company name, Fenland Future Ltd, accepting that this name may need to be appended for any future subsidiaries;**
- **Approve the initial funding requirements of up to £10,001 as set out in the business case. This comprises £1 for share capital to set the company up and up to £10,000 in the form of a loan to be drawn down as and when required to enable the establishment of the LATCo. It is anticipated that this money be utilised from the investment strategy reserve as approved by Council on 20<sup>th</sup> February 2020;**
- **Reaffirm the proposed £25m funding facility as noted by Council on 9<sup>th</sup> January 2020 to be drawn down and utilised on a case by case basis as presented to and approved by the Investment Board;**
- **Indemnify the Council's nominees to the LATCo under the Local Authorities (Indemnities for Members and Officers) Order 2004 if the LATCo does not provide the appropriate insurance cover;**
- **Approve in principle the various agreements needed to give effect to these recommendations including loan agreements with potential fixed and floating charges over the assets of the LATCo, support services agreements and Shareholder Agreement and delegate to the Monitoring Officer in consultation with CMT and the Leader to make decisions and enter into the appropriate legal agreements, and**
- **Note the recommendations regarding director and company secretary appointments to be agreed by the Investment Board.**

**CAB39/19 DRAFT 6 MONTH CABINET FORWARD PLAN**

Councillor Boden presented the Cabinet Forward Plan for information.

4.14 pm

Chairman



**Cabinet Agenda Item 5**

Date: **29 June 2020**

Report Title: **Fenland Future Limited**

**1. Summary**

For Cabinet to approve the Articles of Association and Reserved Matters under its terms of reference 1.1(e) and 1.1(g).

**2. Key Issues**

Following the successful incorporation Cabinet are required to agree the Articles of Association and Reserved Matters for adoption at the first Board meeting of Fenland Future Limited.

**3. Recommendation**

It is recommended that Cabinet approve the Articles of Association to include the Reserved Matters at Appendix 1 of this Report for adoption by Fenland Future Limited and delegates authority to the Leader in consultation with the Monitoring Officer to give shareholder consent to these documents on behalf of the Council and to sign and complete and resolutions and/or other documentation required to bring them into effect.

Wards Affected	All Wards
Portfolio Holders	Cllr Chris Boden, Leader of the Council and Portfolio Holder for Finance
Report Originator	Paul Medd, Chief Executive Peter Catchpole, Corporate Director and s.151 Officer Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Chief Solicitor and Deputy Monitoring Officer
Contact Officer	Paul Medd, Chief Executive <a href="mailto:paulmedd@fenland.gov.uk">paulmedd@fenland.gov.uk</a> Carol Pilson, Corporate Director <a href="mailto:cpilson@fenland.gov.uk">cpilson@fenland.gov.uk</a> Peter Catchpole, Corporate Director and Section 151 Officer <a href="mailto:petercatchpole@fenland.gov.uk">petercatchpole@fenland.gov.uk</a> Amy Brown, Chief Solicitor <a href="mailto:amybrown@fenland.gov.uk">amybrown@fenland.gov.uk</a>
Background Papers	Minutes of Council Meeting on 9th January 2020 confirming revised delegations to Cabinet in relation to the Council's companies and partnerships.

## **2 Articles of Association and Reserved Matters**

Following the successful incorporation of Fenland Future Limited on 10 June 2020 arrangements are now being made to facilitate the first meeting of the Investment Board and subsequently the first meeting of Fenland Future Limited's Board of Directors. As part of this process, Fenland Future Limited will need to adopt Articles of Association and agree the Reserved Matters which first fall for determination by Cabinet under their revised terms of reference.

All limited companies must have Articles of Association. These set out the rules which company officers must follow when running their companies and are agreed with shareholders.

Fenland Future Limited has been incorporated with "model" Articles of Association which are the standard default articles a company can use as prescribed by the Companies Act 2006. It is customary for those model articles to be amended to suit the requirements of each company and as sole shareholder, the Council intends that Fenland Future Limited's Articles of Association be amended and the form of Articles appended hereto, incorporating the Reserved Matters, be adopted in their place. In addition, the appended form of Articles include references to and amendments reflective of the role of the Investment Board as well as the minimum and maximum number of Directors.

## **3. Alignment with Corporate Priorities**

This Report and the incorporation of Fenland Future Limited align with the Council's corporate priorities in relation to the Economy.

## **4. Consultation**

There are no consultation requirements associated with this Report.

## **5. Alternative Options Considered**

There are none.

## **6. Implications**

### **6.1 Financial Implications**

There are no financial implications to this Report.

### **6.2 Legal Implications**

The legal implications are set out in the main body of the Report.

### **6.3 Equality Implications**

There are no equality implication to this Report.

**COMPANY NUMBER 12659496**

**THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION  
OF  
FENLAND FUTURE LIMITED**

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**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**FENLAND FUTURE LIMITED**

**PART 1 – INTERPRETATION**

**1 DEFINED TERMS**

1.1 In the Articles, unless the context requires otherwise:

**Accounting Reference Date** means 31 March

**Articles** means the Company's articles of association as amended from time to time

**bankruptcy** includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy

**Board** means the board of Directors of the Company or such of them as are present at a duly convened and quorate meeting of the Directors

**Business** has the meaning given in Article 6.1

**Business Plan** means the operational business plan and budget of the Company as adopted and amended in accordance with Article

**Chair** has the meaning given in Article 13

**Chair of the Meeting** has the meaning given in Article 45

**Companies Acts** means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company

**Company** means the company governed by the Articles

**Conflict** has the meaning given in Article 15

**Council** means Fenland District Council, Fenland Hall, County Road, March, Cambs, PE15 8NQ and any statutory successor and for the purpose of its decision making includes meetings of its cabinet and committees in accordance with the delegations comprised within the Constitution operating at the material time.

**Director** means a director of the Company, and includes any person occupying the position of director, by whatever name called

**Distribution Recipient** has the meaning given in Article 35.2

**Document** includes, unless otherwise specified, any Document sent or supplied in Electronic Form

**Electronic Form** has the meaning given in section 1168 of the Companies Act 2006

**Eligible Director** means a Director who would have been entitled to vote on the matter had it been proposed as a resolution at a meeting of the Directors

**Financial Year** means each accounting reference period of 12 months ending on the Accounting Reference Date other than the First Accounting Reference Period or such longer or shorter period as the Council shall from time to time determine.

**First Accounting Reference Period** means the period which shall run on and from the date of incorporation of the Company to and including the Accounting Reference Date in the calendar year following the date of this Agreement

**fully paid** in relation to a Share, means that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company

**Group Company** means, in relation to a company:

- (a) any subsidiary of the Company;
- (b) any parent undertaking or undertakings of the Company; and
- (c) any subsidiary of any such parent undertakings

**Hard Copy Form** has the meaning given in section 1168 of the Companies Act 2006

**Holder** in relation to Shares means the person whose name is entered in the register of members as the holder of the Shares

**Instrument** means a Document in Hard Copy Form

**Investment Board** means the person(s) nominated by the Council from time to time to act as its authorised representative(s) and on its behalf (including as Shareholder) which shall be determined by the Council in accordance with its constitution from time to time and notified to the Company in writing. References to the Investment Board shall be deemed to include any members thereof

**ordinary resolution** has the meaning given in section 282 of the Companies Act 2006

**paid** means paid or credited as paid

**participate**, in relation to a Directors' meeting, has the meaning given in Article 11

**Proxy Notice** has the meaning given in Article 51

**Reserved Matters** means the matter specified in Schedule 1

**Shareholder** means a person who is the Holder of a Share

**Shares** means shares in the Company

**special resolution** has the meaning given in section 283 of the Companies Act 2006

**Transmittee** means a person entitled to a Share by reason of the death or bankruptcy of a Shareholder or otherwise by operation of law

**writing** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise

- 1.2 Unless the context otherwise requires, other words or expressions contained in the Articles bear the same meaning as in the Companies Act 2006 as in force on the date when the Articles become binding on the Company.
- 1.3 A reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.
- 1.9 A reference to **writing** or **written** includes email but not fax.
- 1.10 A reference to any agreement or document (or any provision of it) referred to in the Articles is a reference to that agreement or document (or the relevant provision of it) as varied, amended or supplemented (in each case, other than in breach of the provisions of that agreement or document) from time to time.
- 1.11 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12 A reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly).
- 1.13 A reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it.
- 1.14 References to a **month** shall be construed as a reference to a period starting on one day in a calendar month and ending on the day immediately preceding the numerically corresponding day in the next calendar month or, if there is no numerically corresponding day in the next calendar month, the last day in the next calendar month; and
- 1.15 The expressions **body corporate**, **holding company**, **subsidiary**, **parent undertaking**, **subsidiary undertaking** and **parent company** shall have the respective meanings given in the Companies Act 2006, and, for the purposes of sections 1159(1) and 1162(2)(b) and (d) of that Act, a company or undertaking (the **first person**) shall be treated as a member of another company or undertaking if:
- 1.15.1 any of the first person's subsidiaries or subsidiary undertakings is a member of that other company or undertaking; or
- 1.15.2 any shares or capital interests in that other company or undertaking are held by a person acting on behalf of the first person or any of its subsidiaries or subsidiary undertakings; or

- 1.15.3 any shares or capital interests in that other company or undertaking are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares or capital interests by the first person.

In the case of a limited liability partnership which is (or might constitute) a subsidiary or subsidiary undertaking of a company or another limited liability partnership, sections 1159 and 1162 of the Companies Act 2006 shall be amended so that:

- (a) references in sections 1159(1)(a) and (c) and 1162(2)(a) and (d) to "voting rights" are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
- (b) references in sections 1159(1)(b) and 1162(2)(b) to the "right to appoint or remove a majority of its board of directors" is to the right: (i) to appoint or remove a majority of the directors (or equivalent) of that limited liability partnership; or (ii) if no such directors (or equivalent) exist by virtue of the constitution of that limited liability partnership, members holding a majority of the voting rights,

and unless the context otherwise requires, the application of the definitions of body corporate, holding company, subsidiary, parent undertaking, subsidiary undertaking and parent company shall apply as to the relevant company or undertaking as it is at that time.

## **PART 2 - DIRECTORS**

### **DIRECTORS' POWERS AND RESPONSIBILITIES**

#### **2 DIRECTORS' GENERAL AUTHORITY**

Subject to the Articles (including the Reserved Matters), the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

#### **3 RESERVED MATTERS**

- 3.1 Insofar as a matter is a Reserved Matter relating to the Company, the Company shall not make any decision in relation to, or undertake, that Reserved Matter except with the prior written consent of the Council and such consent shall be sought with the intention to facilitate decisions being given by the Council as quickly as reasonably practicable.

#### **4 DIRECTORS MAY DELEGATE**

- 4.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles as follows:

- 4.1.1 to such person or committee;
- 4.1.2 by such means (including by power of attorney);
- 4.1.3 to such an extent;
- 4.1.4 in relation to such matters or territories; and
- 4.1.5 on such terms and conditions,

as they think fit.

- 4.2 If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

4.3 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

## **5 COMMITTEES**

5.1 Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by Directors.

5.2 The Directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not consistent with them.

## **6 THE BUSINESS AND BUSINESS PLANNING**

6.1 The business of the Company (**Business**) shall be to acquire and/or manage and/or develop land and/or an interest in land and/or tangible and/or intangible property in accordance with any Business Plan then in force or as otherwise determined by the Shareholder from time to time.

6.2 The Company shall prepare in respect of each Financial Year a Business Plan to include:

6.2.1 a three year projected revenue plan and capital expenditure requirements (including details of funding sources);

6.2.2 a policy statement covering potential acquisitions and disposals including investment criteria and process;

6.2.3 An annual finance report;

6.2.4 A policy for the use of any surpluses made in each Financial Year including payments of dividends subject to the provisions of the Companies Act 2006;

6.2.5 such other content as the Council may require from time to time and notify to the Company in writing.

6.3 The Business Plan for a given Financial Year shall be:

6.3.1 prepared by the Board and circulated by the Board to the Council in draft form not less than two months prior to the end of the Financial Year preceding the Financial Year to which the draft Business Plan relates; and

6.3.2 considered and, if thought fit, approved as soon as possible by the Council and in any event within one month of the date of receipt of the draft Business Plan from the Board.

6.4 The parties agree to work both together and with any third parties where required in good faith, to procure that each Business Plan is prepared and approved in accordance with articles 6.3 and 6.4 and that the business of the Company is carried out, where appropriate, to interface as seamlessly as possible with the operations and services of the Council.

## **7 PROVISION OF INFORMATION**

7.1 The Company shall provide to the Council:

7.1.1 draft annual accounts in accordance with a timetable as agreed with the Council;

7.1.2 final audited annual accounts by 31 July in each Financial Year;

7.1.3 minutes of all Board meetings within 20 Business Days after the relevant Board meeting to which they relate;

- 7.1.4 all information required to be provided pursuant to any other contractual commitments, within a timescale agreed with the Council; and
- 7.1.5 any other information reasonably required by the Council from time to time.
- 7.2 The Company shall respond promptly to all reasonable requests from the Council for clarification of any parts of the information and shall forthwith upon such request supply any additional information and/or evidence that the Council may require.
- 7.3 The Council and its authorised representatives shall have the right during the standard working hours of the Council (as prescribed by the Council's policies from time to time), on giving to the Company reasonable advance notice, and at the Council's own cost, to inspect the books and records of the Company from time to time and to be supplied with all information in such form as it or they may reasonably require to keep the Council properly informed about the business and affairs of the Company and shall have the right to take copies of any such books and records or parts thereof.
- 7.4 The Company agrees that it shall give notice of any Directors' meeting to the Council at the same time as it gives notice to the Directors.
- 7.5 The Company shall immediately notify the Council of any legal action (potential, threatened or actual) of which it becomes aware which has been commenced by or against the Company.

## **DECISION-MAKING BY DIRECTORS**

### **8 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

- 8.1 The general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with Article 9.
- 8.2 If only one Director is eligible to vote on any authorisation required under Article 15, the general rule does not apply and the Eligible Director may take decisions in relation to the relevant matter without regard to any of the provisions in the Articles relating to Directors' decision-making.
- 8.3 Each Director shall be entitled to cast one vote on any resolution put to the Directors.
- 8.4 If the numbers of votes for and against a proposal are equal, the Chair shall not have a casting vote.

### **9 UNANIMOUS DECISIONS**

- 9.1 A decision of the Directors is taken in accordance with this Article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 9.2 Such a decision may take the form of a resolution in writing, copies of which have been signed by each Eligible Director or to which each Eligible Director has otherwise indicated agreement in writing.
- 9.3 A decision may not be taken in accordance with this Article if the Eligible Directors would not have formed a quorum at such a meeting.

### **10 CALLING A DIRECTORS' MEETING**

- 10.1 Any Director may call a Directors' meeting by giving notice of the meeting to the Directors and the Council in accordance with Article 10.2 or by authorising the company secretary (if any) to give such notice.
- 10.2 A meeting of the Directors must be called by at least seven days' notice unless either:
- 10.2.1 the Directors and the Council unanimously agree otherwise; or
- 10.2.2 urgent circumstances require shorter notice.

- 10.3 Notice of any Directors' meeting must include:
- 10.3.1 its proposed date and time;
  - 10.3.2 where it is to take place;
  - 10.3.3 if it is anticipated that persons participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting;
  - 10.3.4 an agenda specifying in reasonable detail the matters to be raised at the meeting or the committee meeting; and
  - 10.3.5 copies of any papers to be discussed at the meeting or the committee meeting.
- 10.4 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

## **11 PARTICIPATION IN DIRECTORS' MEETINGS**

- 11.1 Subject to the Articles, Directors **participate** in a Directors' meeting, or part of a Directors' meeting, when:
- 11.1.1 the meeting has been called and takes place in accordance with the Articles; and
  - 11.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 11.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- 11.3 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 11.4 The Investment Board and any senior Council officers (not appointed as Directors) shall have the right to attend and receive notice of (but not vote at) any Board meetings and receive papers in relation to such meetings at the same time as those papers are given to the Directors.

## **12 QUORUM FOR DIRECTORS' MEETINGS**

- 12.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 12.2 Subject to Article 8.2, the quorum for a Directors' meeting shall be two Directors.
- 12.3 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision:
- 12.3.1 to appoint further Directors; or
  - 12.3.2 to call a general meeting so as to enable the Shareholders to appoint further Directors.
- 12.4 If a quorum is not present with half an hour from the time appointed for the meeting, or during a meeting a quorum ceases to be present, the meeting shall be adjourned to such time and place as the Directors may determine in accordance with the Articles.



### **13 CHAIRING OF DIRECTORS' MEETINGS**

- 13.1 The person appointed pursuant to Article 13.2 or Article 13.3 (as the case may be) shall be known as the Chair.
- 13.2 With the prior written consent of the Council, the Directors may:
- 13.2.1 appoint a person chair of the Directors;
  - 13.2.2 determine the period for which he is to hold office; and
  - 13.2.3 at any time remove him from office.
- 13.3 If at the date and time of a meeting of the Directors no person has been appointed as Chair pursuant to Article 11.2, then the participating Directors at that meeting may appoint a Director present to chair the meeting. The participating Directors may also terminate the appointment of a person as Chair made under this Article 11.3 at any time during the meeting at which he is appointed.

### **14 CONFLICTS OF INTEREST – TRANSACTIONS OR ARRANGEMENTS WITH THE COMPANY**

- 14.1 The relevant provisions of the Companies Act 2006 (including, without limitation, sections 177 and 182) shall apply in relation to declarations of interest in proposed and existing transactions or arrangements with the Company.
- 14.2 Provided that he has disclosed to the Directors the nature and extent of any interest of his in accordance with and to the extent required by the Companies Act 2006, a Director notwithstanding his office:
- 14.2.1 may be a party to, or otherwise interested in, any contract with the Company or a Group Company of the Company or in which either or both of them is/are otherwise interested;
  - 14.2.2 may be a director or other officer of, employed by, a party to any contract with, or otherwise interested in, the Council, any Group Company of the Company or in any body corporate promoted by the Company, the Council, or a Group Company of the Company, or in which any of them is/are interested; and
  - 14.2.3 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor).
- 14.3 For the purposes of this Article 14:
- 14.3.1 a Director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer or employee of the Council or any Group Company of the Company; and
  - 14.3.2 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any contract in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such contract of the nature and extent so specified.
- 14.4 Where a Director is a director, officer, or employee of the Council or a Group Company of the Company, he:
- 14.4.1 may in exercising his independent judgment take into account the success of the Council or Group Company as well as the success of the Company; and

- 14.4.2 shall in the exercise of his duties have a duty of confidentiality to the Council or Group Company in relation to confidential information of that Shareholder or Group Company, but he shall not be restricted by any duty of confidentiality to the Company from providing information to the Council or Group Company except as may be imposed under Article 15.5.

## 15 CONFLICTS OF INTEREST REQUIRING BOARD AUTHORISATION

- 15.1 The Directors may authorise any matter which would otherwise involve a Director (a **Relevant Director**) breaching his duty under section 175 of the Companies Act 2006 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (a **Conflict**).
- 15.2 Any Director (including the Relevant Director) may propose that the Relevant Director be authorised in relation to any matter the subject of a Conflict. Such proposal and any authority given by the Directors shall be effected in the same way that any other matter may be proposed to and decided upon by the Directors under the Articles save that the Relevant Director (and any Director) shall not count towards the quorum nor vote on any resolution giving such authority.
- 15.3 Where the Directors give authority in relation to a Conflict:
- 15.3.1 the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded); and
- 15.3.2 the Directors may revoke or vary such authority at any time but this will not affect anything done by the Relevant Director prior to such revocation in accordance with the terms of such authority.
- 15.4 A Conflict in relation to a Director arising solely as a result of him being a director, officer or employee of the Council or any Group Company of the Company shall be deemed to have been authorised for the purposes of this Article 15 and section 175 of the Companies Act 2006.
- 15.5 Where Article 15.4 above applies or the Directors otherwise gives authority in relation to a Conflict, or where any of the situations referred to in Article 14 (a **Permitted Situation**) applies:
- 15.5.1 the Directors may (whether at the relevant time or subsequently) (i) require that the Relevant Director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at Directors meetings or otherwise) related to the Conflict or Permitted Situation; and (ii) impose upon the Relevant Director such other terms for the purpose of dealing with the Conflict as they may determine;
- 15.5.2 the Relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict or Permitted Situation; and
- 15.5.3 the Directors may provide that where the Relevant Director obtains (otherwise than through his position as a Director of the Company) information that is confidential to a third party, the Director will not be obliged to disclose that information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence.
- 15.6 A Director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the Company or the Shareholders for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict authorised under this Article or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a Director having any such interest.

## **16 EFFECT OF DIRECTORS' INTERESTS ON QUORUM AND VOTING**

- 16.1 Subject where applicable to disclosure in accordance with the Articles and subject to any terms imposed by the Directors in relation to any Conflict or Permitted Situation, a Director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly (where that interest arises by virtue of a Conflict which has been authorised or a Permitted Situation) and if he shall do so his vote shall be counted and, whether or not he does, his presence at the meeting shall be taken into account in ascertaining whether a quorum is present.
- 16.2 However, a Director shall not be entitled to vote in respect of any other matter in which he is interested directly or indirectly and his presence at the meeting shall not be taken into account in ascertaining whether a quorum is present.
- 16.3 Subject to Article 16.4 below, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any Director other than the Chair is to be final and conclusive.
- 16.4 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

## **17 RECORDS OF DECISIONS TO BE KEPT**

The Directors must ensure that the Company keeps a record, in writing, for at least ten years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.

## **18 DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

## **APPOINTMENT OF DIRECTORS**

### **19 METHODS OF APPOINTING DIRECTORS**

- 19.1 The board of Directors shall comprise of a minimum of three Directors and a maximum of five Directors.
- 19.2 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed as a Director in accordance with these Articles.
- 19.3 Subject to the Articles, any appointment(s) or termination(s) of a Director made under this Article 19 shall be effected by the Council giving notice in writing to the Company, on the date on which the notice from the Council is received by the Company, or if a later date is specified in the notice, on that date.
- 19.4 The Council may at any time appoint any person to be a Director, whether as an additional Director or to fill a vacancy, and may remove from office any Director howsoever appointed and any alternate Director. Any such appointment or removal shall be effected by an ordinary resolution or otherwise by notice in writing to the Company by the Council. Any such appointment or removal shall take effect:
- 19.4.1 if it is effected by ordinary resolution, at the point the resolution is passed; and

19.4.2 if it is effected by notice in writing to the Company, when it is delivered to the registered office of the Company or, if it is produced at a meeting of the Directors, when it is so produced or, if sent by electronic means to an address generally used by the Company, when it is sent.

19.5 Any removal pursuant to this Article 19 shall be without prejudice to any claim that a director may have under any contract between him and the company.

## **20 TERMINATION OF A DIRECTOR'S APPOINTMENT**

20.1 A person ceases to be a Director as soon as:

20.1.1 the Council notifies the Company that the individual is to be removed as a Director;

20.1.2 the Council serves notice to remove the Director in accordance with Article 19.4, and such notice has taken effect in accordance with its terms;

20.1.3 that person ceases to be a Director by virtue of any provision of the Companies Act 2006 or is prohibited from being a Director by law;

20.1.4 a bankruptcy order is made against that person;

20.1.5 a composition is made with that person's creditors generally in satisfaction of that person's debts;

20.1.6 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months; or

20.1.7 notification is received by the Company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms.

## **21 DIRECTORS' REMUNERATION AND EXPENSES**

21.1 Any remuneration of the Directors shall require the prior approval of the Council.

21.2 Any policy regarding expenses of Directors (and alternate Directors) shall be determined by the Council.

## **PART 3 - SHARES AND DISTRIBUTIONS**

### **SHARES**

## **22 ROLE OF INVESTMENT BOARD**

22.1 Any notice to or from the Council shall be sent to or from the Investment Board. Where a consent or approval is expressed in these Articles to be required of the Council, it shall be given by the Investment Board. Such consent or approval shall be given in writing in advance of the decision or matter requiring consent or approval and the Council shall use its reasonable endeavours to communicate any such decision, consent or approval (including any decision not to give consent or approval) to the Company within a period of 30 days from receipt of the requests provided that the Council shall not be deemed to have made a decision or given its consent or approval by virtue of the fact that it has not communicated the same within that time limit. Where the Company requires the Council to make any decision or provide any consent or approval, the Company shall provide such material information as the Council may require to enable it to consider the decision, consent or approval in question.

- 22.2 Once a consent or approval is given in accordance with article 22.1 then, to the extent a special or an ordinary resolution is required pursuant to the Companies Acts or otherwise, the Company shall prepare and circulate to the Council a draft resolution for consideration and, if thought fit, approval by the Council.

## **23 APPOINTMENT OF SHAREHOLDERS**

- 23.1 The subscribers to the Memorandum are the first Shareholders.
- 23.2 No person shall be admitted as a Shareholder unless they are approved unanimously by the Shareholders.
- 23.3 The Directors or company secretary (if appointed) must keep a register of names and addresses of the Shareholders.

## **24 LIABILITY OF SHAREHOLDERS**

The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares held by them.

## **25 ALL SHARES TO BE FULLY PAID UP**

- 25.1 No Share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.
- 25.2 This does not apply to Shares taken on the formation of the Company by the subscribers to the Company's Memorandum.

## **26 POWERS TO ISSUE DIFFERENT CLASSES OF SHARE**

- 26.1 Subject to the Articles, but without prejudice to the rights attached to any existing Share, the Company may issue Shares with such rights or restrictions as may be determined by ordinary resolution.
- 26.2 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the Holder, and the Directors may determine the terms, conditions and manner of redemption of any such Shares.

## **27 COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

Except as required by law, no person is to be recognised by the Company as holding any Share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a Share other than the Holder's absolute ownership of it and all the rights attaching to it.

## **28 SHARE CERTIFICATES**

- 28.1 The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.
- 28.2 Every certificate must specify:
- 28.2.1 in respect of how many Shares, of what class, it is issued;
  - 28.2.2 the nominal value of those Shares;
  - 28.2.3 that the Shares are fully paid; and
  - 28.2.4 any distinguishing numbers assigned to them.

- 28.3 No certificate may be issued in respect of Shares of more than one class.
- 28.4 If more than one person holds a Share, only one certificate may be issued in respect of it.
- 28.5 Certificates must be executed in accordance with the Companies Act 2006.

## **29 REPLACEMENT SHARE CERTIFICATES**

- 29.1 If a certificate issued in respect of a Shareholder's Shares is:
  - 29.1.1 damaged or defaced; or
  - 29.1.2 said to be lost, stolen or destroyed,that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.
- 29.2 A Shareholder exercising the right to be issued with such a replacement certificate:
  - 29.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - 29.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
  - 29.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

## **30 SHARE TRANSFERS**

- 30.1 Shares may be transferred by means of an Instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor.
- 30.2 No fee may be charged for registering any Instrument of transfer or other Document relating to or affecting the title to any Share.
- 30.3 The Company may retain any Instrument of transfer which is registered.
- 30.4 The transferor remains the Holder of a Share until the transferee's name is entered in the register of members as Holder of it.
- 30.5 The Directors may refuse to register the transfer of a Share, and if they do so, the Instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

## **31 TRANSMISSION OF SHARES**

- 31.1 If title to a Share passes to a Transferee, the Company may only recognise the Transferee as having any title to that Share.
- 31.2 A Transferee who produces such evidence of entitlement to Shares as the Directors may properly require:
  - 31.2.1 may, subject to the Articles, choose either to become the Holder of those Shares or to have them transferred to another person; and
  - 31.2.2 subject to the Articles, and pending any transfer of the Shares to another person, has the same rights as the Holder had.

31.3 However, Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the Holder's death or bankruptcy or otherwise, unless they become the holders of those Shares.

## **32 EXERCISE OF TRANSMITEES' RIGHTS**

32.1 Transmittees who wish to become the holders of Shares to which they have become entitled must notify the Company in writing of that wish.

32.2 If the Transmitttee wishes to have a Share transferred to another person, the Transmitttee must execute an Instrument of transfer in respect of it.

32.3 Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the Transmitttee has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.

## **33 TRANSMITEES BOUND BY PRIOR NOTICES**

If a notice is given to a Shareholder in respect of Shares and a Transmitttee is entitled to those Shares, the Transmitttee is bound by the notice if it was given to the Shareholder before the Transmitttee's name has been entered in the register of members.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **34 PROCEDURE FOR DECLARING DIVIDENDS**

34.1 The Company may by ordinary resolution declare dividends, and the Directors may subject to Article 3.3 decide to pay interim dividends.

34.2 A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.

34.3 No dividend may be declared or paid unless it is in accordance with Shareholders' respective rights.

34.4 Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which Shares are issued, specify otherwise, it must be paid by reference to each Shareholder's holding of Shares on the date of the resolution or decision to declare or pay it.

34.5 If the Company's share capital is divided into different classes, no interim dividend may be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

34.6 The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

34.7 If the Directors act in good faith, they do not incur any liability to the holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.

### **35 PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS**

35.1 Where a dividend or other sum which is a distribution is payable in respect of a Share, it must be paid by one or more of the following means:

35.1.1 transfer to a bank or building society account specified by the Distribution Recipient either in writing or as the Directors may otherwise decide; or

35.1.2 any other means of payment as the Directors agree with the Distribution Recipient either in writing or by such other means as the Directors decide.

- 35.2 In the Articles, the **Distribution Recipient** means, in respect of a Share in respect of which a dividend or other sum is payable:
- 35.2.1 the Holder of the Share; or
  - 35.2.2 if the Share has two or more joint holders, whichever of them is named first in the register of members; or
  - 35.2.3 if the Holder is no longer entitled to the Share by reason of death or bankruptcy; or
  - 35.2.4 otherwise by operation of law, the Transmitter.

### **36 NO INTEREST ON DISTRIBUTIONS**

- 36.1 The Company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:
- 36.1.1 the terms on which the Share was issued; or
  - 36.1.2 the provisions of another agreement between the Holder of that Share and the Company.

### **37 UNCLAIMED DISTRIBUTIONS**

- 37.1 All dividends or other sums which are:
- 37.1.1 payable in respect of Shares; and
  - 37.1.2 unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.
- 37.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.
- 37.3 If:
- 37.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and
  - 37.3.2 the Distribution Recipient has not claimed it,
- the Distribution Recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

### **38 NON-CASH DISTRIBUTIONS**

- 38.1 Subject to the terms of issue of the Share in question, the Company may, by ordinary resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a Share by transferring non-cash assets of equivalent value (including, without limitation, Shares or other securities in any Company).
- 38.2 For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:
- 38.2.1 fixing the value of any assets;
  - 38.2.2 paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and



38.2.3 vesting any assets in trustees.

### **39 WAIVER OF DISTRIBUTIONS**

39.1 Distribution Recipients may waive their entitlement to a dividend or other distribution payable in respect of a Share by giving the Company notice in writing to that effect, but if:

39.1.1 the Share has more than one Holder; or

39.1.2 more than one person is entitled to the Share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the Share.

### **CAPITALISATION OF PROFITS**

#### **40 AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

40.1 Subject to the Articles, the Directors may, if they are so authorised by an ordinary resolution:

40.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

40.1.2 appropriate any sum which they so decide to capitalise (a **capitalised sum**) to the persons who would have been entitled to it if it were distributed by way of dividend (the **persons entitled**) and in the same proportions.

40.2 Capitalised sums must be applied:

40.2.1 on behalf of the persons entitled; and

40.2.2 in the same proportions as a dividend would have been distributed to them.

40.3 Any capitalised sum may be applied in paying up new Shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

40.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

40.5 Subject to the Articles, the Directors may:

40.5.1 apply capitalised sums in accordance with Articles 40.3 and 40.4 partly in one way and partly in another;

40.5.2 make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article (including the issuing of fractional certificates or the making of cash payments); and

40.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article.

## **PART 4 - DECISION-MAKING BY SHAREHOLDERS**

### **41 WRITTEN RESOLUTIONS**

A resolution of the Shareholder (or class thereof) may be passed as a written resolution in accordance with Chapter 2 of Part 13 of the Companies Act 2006.

### **ORGANISATION OF GENERAL MEETINGS**

#### **42 GENERAL MEETINGS**

42.1 The Council shall appoint and may remove or replace, the Investment Board (or any member thereof) and shall give notice in writing to the Company, in accordance with section 323 of the Companies Act 2006, to act as the representative of the Council in accordance with the Articles.

42.2 Notice of a general meeting shall be given in Hard Copy Form, in Electronic Form or by means of a website, provided that the Company complies with any requirements relating to the giving of notice under the Companies Act 2006.

42.3 Any Director or the company secretary (if any) shall send notice of a general meeting to the Council, every Director and any other person required by law to be sent such notice.

42.4 Notice of a general meeting shall:

42.4.1 state the time, date and place of the meeting;

42.4.2 specify the general nature of the business to be dealt with at the meeting and set out the text of any special resolution to be voted upon at the meeting; and

42.4.3 be accompanied by a proxy form;

notice of a general meeting need not be in writing.

42.5 The accidental omission to give notice of a general meeting to, or the non-receipt of notice by, any person entitled to receive the notice; or a technical defect in the timing or manner of giving such notice of which the Directors are unaware shall not invalidate the proceedings of that meeting.

#### **43 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

43.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

43.2 A person is able to exercise the right to vote at a general meeting when:

43.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

43.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

43.3 The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

43.4 In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

43.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

#### **44 QUORUM FOR GENERAL MEETINGS**

No business other than the appointment of the Chair of the Meeting is to be transacted at a general meeting unless an authorised representative of each Shareholder (or in the case of the Council the Investment Board or a member thereof) is present.

#### **45 CHAIRING GENERAL MEETINGS**

45.1 The person chairing a meeting in accordance with this Article is referred to as the **Chair of the Meeting**.

45.2 The Chair (if one is appointed under Article 13.2) shall chair general meetings if present and willing to do so.

45.3 If no Chair has been appointed under Article 13.2 or (if appointed) the Chair is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

45.3.1 the Directors present; or

45.3.2 (if no Directors are present) the meeting,

must appoint a Director or Shareholder to chair the meeting, and the appointment of the Chair of the meeting must be the first business of the meeting.

#### **46 ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

46.1 Directors may attend and speak at general meetings, whether or not they are Shareholders.

46.2 The Chair of the Meeting may permit other persons who are not:

46.2.1 Shareholders; or

46.2.2 otherwise entitled to exercise the rights of Shareholders in relation to general meetings, to attend and speak at a general meeting.

#### **47 ADJOURNMENT**

47.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chair of the meeting must adjourn it.

47.2 The Chair of the Meeting may adjourn a general meeting at which a quorum is present if:

47.2.1 the meeting consents to an adjournment; or

47.2.2 it appears to the Chair of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

47.3 The Chair of the meeting must adjourn a general meeting if directed to do so by the meeting.

47.4 When adjourning a general meeting, the Chair of the meeting must:

47.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors; and

- 47.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 47.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
  - 47.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and
  - 47.5.2 containing the same information which such notice is required to contain.
- 47.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **VOTING AT GENERAL MEETINGS**

### **48 VOTING: GENERAL**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

### **49 ERRORS AND DISPUTES**

- 49.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 49.2 Any such objection must be referred to the Chair of the Meeting, whose decision is final.

### **50 POLL VOTES**

- 50.1 A poll on a resolution may be demanded:
  - 50.1.1 in advance of the general meeting where it is to be put to the vote, or
  - 50.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 50.2 A poll may be demanded by:
  - 50.2.1 the Chair of the Meeting;
  - 50.2.2 the Directors;
  - 50.2.3 two or more persons having the right to vote on the resolution; or
  - 50.2.4 a person or persons representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote on the resolution.
- 50.3 A demand for a poll may be withdrawn if:
  - 50.3.1 the poll has not yet been taken; and
  - 50.3.2 the Chair of the Meeting consents to the withdrawal.
- 50.4 Polls must be taken immediately and in such manner as the Chair of the Meeting directs.

## **51 CONTENT OF PROXY NOTICES**

- 51.1 Proxies may only validly be appointed by a notice in writing (a **Proxy Notice**) which:
- 51.1.1 states the name and address of the Shareholder appointing the proxy;
  - 51.1.2 identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
  - 51.1.3 is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - 51.1.4 is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.
- 51.2 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- 51.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 51.4 Unless a Proxy Notice indicates otherwise, it must be treated as:
- 51.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 51.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **52 DELIVERY OF PROXY NOTICES**

- 52.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person.
- 52.2 An appointment under a Proxy Notice:
- 52.2.1 may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given; and
  - 52.2.2 shall be revoked if the person by whom or on whose behalf the Proxy Notice was given is present at the meeting or adjourned meeting to which it relates.
- 52.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 52.4 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## **53 AMENDMENTS TO RESOLUTIONS**

- 53.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
- 53.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chair of the Meeting may determine); and

- 53.1.2 the proposed amendment does not, in the reasonable opinion of the Chair of the Meeting, materially alter the scope of the resolution.
- 53.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
  - 53.2.1 the Chair of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
  - 53.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 53.3 If the Chair of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chair of the Meeting's error does not invalidate the vote on that resolution.

## **PART 5 - ADMINISTRATIVE ARRANGEMENTS**

### **54 MEANS OF COMMUNICATION TO BE USED**

- 54.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for Documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 54.2 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.
- 54.3 A Director may agree with the Company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

### **55 COMPANY SEALS**

- 55.1 Any common seal may only be used by the authority of the Directors.
- 55.2 The Directors may decide by what means and in what form any common seal is to be used.
- 55.3 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a Document, the Document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- 55.4 For the purposes of this Article, an authorised person is:
  - 55.4.1 any Director;
  - 55.4.2 the company secretary (if any); or
  - 55.4.3 any person authorised by the Directors for the purpose of signing Documents to which the common seal is applied.

### **56 RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

Each Shareholder and its authorised representatives shall have the right on giving to the Company reasonable advance notice, during normal business hours to inspect the books and records of the Company.

### **57 APPOINTMENT OF COMPANY SECRETARY**

The Council may appoint (and remove) the company secretary by notice in writing to the Company.

## 58 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

The Directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former Director or shadow Director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that Subsidiary.

## DIRECTORS' INDEMNITY AND INSURANCE

### 59 INDEMNITY

59.1 Subject to Article 59.2, a relevant Director of the Company or an associated Company may be indemnified out of the Company's assets against:

59.1.1 any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated Company;

59.1.2 any liability incurred by that Director in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006); and

59.1.3 any other liability incurred by that Director as an officer of the Company or an associated Company.

59.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

59.3 In this Article:

59.3.1 companies are **associated** if one is a Subsidiary of the other or both are subsidiaries of the same body corporate; and

59.3.2 a **relevant Director** means any Director or former Director of the Company or an associated Company.

### 60 INSURANCE

60.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

60.2 In this Article:

60.2.1 a **relevant Director** means any Director or former Director of the Company or an associated Company;

60.2.2 a **relevant loss** means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated Company or any pension fund or employees' share scheme of the Company or associated Company; and

60.2.3 companies are **associated** if one is a Subsidiary of the other or both are subsidiaries of the same body corporate.

**SCHEDULE 1**  
**FENLAND FUTURE LIMITED (the “Company”) LIST OF RESERVED MATTERS**

1. Admit any person as a new Shareholder of the Company.
2. Adopt any Business Plan of the Company which shall set out the intentions of the Company for the following financial year (“Business”).
3. Alter any of the provisions of the Business Plan after it has been adopted, the Articles or any rights attaching to the Shareholders’ interests in the Shares that they hold.
4. Make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of the Company or declare any dividend or other distribution to Shareholders.
5. Create any encumbrance over the whole or any part of the undertaking or assets of the Company.
6. Extend the Company’s activities outside the scope of the Business Plan or over any Shareholder’s interest or cease to carry on any part of the Business.
7. Alter the Company’s accounting reference date.
8. Approve or sign the annual accounts of the Company.
9. Appoint or remove any Director of the Company otherwise than in accordance with the Articles.
10. Make any petition or resolution to wind up the Company (or any subsidiary) or any petition for an administration order or any order having similar effect in a different jurisdiction in relation to such company unless, in any case, such company is at the relevant time insolvent and the Directors reasonably consider (taking into account their fiduciary duties and other obligations under the Companies Act 2006) that it ought to be wound up.
11. Sell, lease (as lessor), license (as licensor), transfer or otherwise dispose of any of its assets at a total price per transaction exceeding £10,000, otherwise than in the ordinary course of the Business and to the extent provided for in the Business Plan.
12. Purchase, lease (as lessee), license (as licensee) or otherwise acquire any assets at a total cost to the Company per transaction exceeding £10,000 otherwise than in the ordinary course of the Business and to the extent provided for in the Business Plan.
13. Acquire or agree to acquire any freehold or leasehold interest in or licence over land.
14. Enter into or make any contract with a cost to the Company of more than £10,000 (a “Material Contract”) unless provided for in the Business Plan.
15. Give notice of termination of any Material Contract or make any variation of more than £10,000 (a “Material Variation”) to any contract.
16. Enter into any contracts or arrangements with any of the Shareholders or Directors or any person with whom any Shareholder or Director is connected, associated or interested (whether as Director, consultant, Shareholder or otherwise).
17. Change the registered or trading name of the Company or its registered office.
18. Form any subsidiary of the Company, or acquire any shares in any other company, whether through subscription or transfer, such that the company concerned becomes a subsidiary of the Company.
19. Enter into any contract which cannot be terminated within a 12 month period and under which the liability for such termination could exceed £10,000, otherwise than in the ordinary course of the Business and to the extent provided for in the Business Plan.
20. Give or take any loans, borrowing or credit (other than normal trade credit in the ordinary course of the Business) in excess of £10,000, or cause the aggregate indebtedness of the Company to exceed £10,000 other than to the extent provided for in the Business Plan.
21. Enter into any agreement not in the ordinary course of the Business and/or which is not on an arm’s length basis or amend its standard terms of business.
22. Give any guarantee, suretyship or indemnity to secure the liabilities of any person or assume the obligations of any person.
23. Incur any item or series of items of capital expenditure of more than £10,000 unless provided for in the Business Plan.
24. Recruit or dismiss any employee unless provided for in the Business Plan provided always that any employee may be dismissed for gross misconduct without the prior consent of the Shareholders. Save as provided for in the Articles, pay any fees, remuneration or other emoluments to any Director or vary any such fees, remuneration or emoluments. For the avoidance of doubt this paragraph 25 shall not apply to the payment or reimbursement of expenses properly incurred by any Director in the course of carrying out his or her duties in relation to the Company nor to any indemnity by the Company to which a Director is entitled pursuant to the Articles or under any relevant law.
25. Consolidate or amalgamate with any company, association, partnership or legal entity or acquire any business or undertaking of any other person (for the avoidance of doubt, excluding the consolidation of accounts with Fenland District Council).



26. Enter into any joint venture, partnership or profit sharing arrangement with any person.
27. Change any of the Company's accounting or reporting practices.
28. Create any share option, bonus or other incentive scheme.
29. Make an offer of employment or alter the remuneration or conditions of employment of any employee or any consultant of the Company unless provided for in the Business Plan or unless obliged to do so by statute.
30. Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to the Company, its assets or undertakings, or the Business.
31. License, assign or otherwise dispose of intellectual property rights owned by the Company.
32. Commence, settle or defend any claim, proceedings or other litigation brought by or against the Company, except in relation to debt collection in respect of a sum not exceeding £10,000 in the ordinary course of the Business.

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**DRAFT 6 MONTH CABINET FORWARD PLAN –  
Updated 17 June 2020**




(For any queries, please refer to the published forward plan)

**CABINET**

<b>CABINET DATE</b>	<b>ITEMS</b>	<b>LEAD PORTFOLIO HOLDER</b>
6 August 2020	<ol style="list-style-type: none"> <li>1. Annual Report 2019/20</li> <li>2. Treasury Management Annual Report 2019/20</li> <li>3. Financial Outturn Report 2019/20</li> <li>4. Budget Update</li> <li>5. Cabinet Draft Forward Plan</li> </ol>	Cllr Boden Cllr Boden Cllr Boden Cllr Boden Cllr Boden
8 Sept 2020	<ol style="list-style-type: none"> <li>1. Coates Conservation Area Appraisal</li> <li>2. Cabinet Draft Forward Plan</li> </ol>	Cllr Seaton Cllr Boden
21 Oct 2020	<ol style="list-style-type: none"> <li>1. Draft Local Plan</li> <li>2. Cabinet Draft Forward Plan</li> </ol>	Cllr Laws Cllr Boden
17 Nov 2020	- Reserve meeting date -	
14 Dec 2020	<ol style="list-style-type: none"> <li>1. Treasury Management Strategy Statement &amp; Annual Investment Strategy Mid Year Review 2020/21</li> <li>2. Draft Business Plan</li> <li>3. Draft Budget 2021/22 &amp; Mid Term Financial Strategy</li> <li>4. Local Council Tax Reduction Scheme Review 2020/21</li> <li>5. Fees &amp; Charges</li> <li>6. Cabinet Draft Forward Plan</li> </ol>	Cllr Boden  Cllr Boden Cllr Boden  Cllr Boden Cllr Boden
12 Jan 2021	<ol style="list-style-type: none"> <li>1. Cabinet Draft Forward Plan</li> </ol>	Cllr Boden

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<b>Cabinet Report: Agenda Item 8</b>		
Date:	<b>29 June 2020</b>	
Report Title:	<b>Freedom Leisure Covid-19 impact: ongoing requested support to maintain the business and contract</b>	

## 1. Summary

For Cabinet to consider a further request for financial assistance from Freedom Leisure in line with the Council's leisure contract.

## 2. Key Issues

In December 2018 Freedom Leisure, a charitable trust, took over the operation and management of the Council's four leisure centres with a 15 year agreement.

This arrangement, after Hudson Leisure Centre capital costs and gym equipment replacement costs, has saved FDC £351,000 p.a. Additionally, a staff review of contract management staff as a result of the new Freedom contract added £49,000 p.a to the annual savings, equating to a total of £5.6 million of savings over the life of the contract.

The first 15 months of the contract have proceeded better than either partner, the former FDC staff in the centres and leisure centre customers could have hoped for. Whilst not perfect, the customer feedback, as well as customer and income growth, demonstrates that Freedom has been doing a very good job on the Council's behalf.

As with any business, Freedom is dependent on income and cash flow to manage the business. As a large organisation, they have capacity to absorb market conditions and respond in a more agile manner than a Council might. The business is, however, dependent on income from paying customers.

Following the change in law and the necessity to close leisure centres on 23 March, all income to Freedom became negligible immediately preceding the rise in the Covid 19 pandemic. The contract the Council has with Freedom Leisure requires that we support them financially in these types of situation and therefore the Leader agreed on behalf of Cabinet an initial support package on 1st May 2020 to fund costs that could not be further mitigated whilst the centres were closed and deferral of the management fee Freedom usually pays us on a monthly basis. The management fee is to be repaid in years 5-15 of the contract.

The Phase I support package consisted of:

Deferred Management Fees	£112,680
Cash support	£164,988
<b>Total Phase I support</b>	<b>£277,668</b>

The Council has received £1.1m from Government to support costs due to the current coronavirus crisis.

The improving Covid outlook indicates that leisure facilities may be allowed, subject to social distancing measures, to reopen from late July or August 2020. This paper uses industry research to model anticipated income. Levels of income will rise after re-opening, but are not expected to achieve 2019 levels until 2 - 3 months AFTER all social distancing measures are removed. Income levels remain extremely uncertain. When the

centres reopen we will be able to more accurately predict income levels. Therefore, the figures included in the report, albeit based on customer attendance expectations from industry surveys of leisure users nationally, should be treated with caution.

This situation means that there will remain a significant financial gap within the Freedom contract, albeit with modelling indicating a month on month reduction. Without the Council's continued financial support, the contract between Freedom Leisure and Fenland District Council is unlikely to remain viable and the Council would need to explore alternative options to deliver leisure centre services, all of which have their own financial challenges.

The support package contained within this report is for July - September 2020. A further support package and Cabinet report is likely to be required, dependent on predicted income levels for October 2020 onwards. A best case expectation is the continued deferral of management fees until April 2021. The support package can be provided within the terms of the Contract and should not give rise to concerns under The Public Contracts Regulations or in breach of the general prohibition against State Aid.

The Council has been proactively lobbying the government through the LGA, District Council Network, District Council Treasurers, and local MP Stephen Barclay to highlight the financial difficulty that the leisure sector is facing and the financial impact on Councils to support their local facilities. The Department for Culture, Media and Sport is currently considering proposals to put to Treasury and MHCLG regarding potential future funding to Local Authorities, in addition to the £1.1 million coronavirus support already received by FDC.

Fenland has a contract with Freedom Leisure that is in the second full year of a 15 year contract. The significant efficiencies and savings that the contract has allowed FDC are expected to return during its term.

### **3. Recommendations**

#### **It is recommended that:**

- 3.1 Fenland District Council ("FDC") notes Freedom's intention to resume service provision on a phased basis at the earliest opportunity the government will allow, possibly late July or early August 2020 and provides the financial relief set out in these recommendations contingent upon its compliance with Government guidance and Covid secure risk assessments being completed and appropriately reviewed.
- 3.2 FDC defers the monthly management fee of £37,560 per month for July - September 2020, at a cost to the Council of £112,680 repayable in accordance with the terms set out at paragraph 3.5 of these recommendations.
- 3.3 FDC continues to support Freedom Leisure on an open book basis by providing them with an interest free loan payable monthly up to the amounts set out below and repayable in accordance with the terms set out at paragraph 3.5 and varied according to paragraph 3.4 of these recommendations:

July	£32,235	(closed cost)
August	£63,825	(1 <sup>st</sup> opening month)
September	£59,021	(2 <sup>nd</sup> opening month)
Total cash support:	£155,081	

With an actual opening date uncertain (see [Appendix III](#) – UKActive Statement of 23 June), it should be noted that these costs are unlikely to fall into specific months, but may be spread across the period pro-rata, depending on opening dates.

- 3.4 That Cabinet authorises the Leader of the Council, in discussion with the Portfolio Holder for Leisure and the Section 151 Officer, to supplement the interest free loan described at paragraph 3.3 up to a maximum total value of £200,000 in the event that predicted income fails to meet the committed outgoings for the period. Such additional payments to be assessed on a monthly basis with any requests for additional relief having been made by no later than the 3<sup>rd</sup> Monday of each month and repayable in accordance with the terms set out at paragraph 3.5 of these recommendations.
- 3.5 Repayment of the £267,761 described in paragraphs 3.2 to 3.3 of these recommendations together with any supplementary amount in accordance with paragraph 3.4 shall become payable through an annual deduction of 75% of any profit generated in excess of the levels predicted in the LOBTA. This is a change from the current 50/50 profit share, and will be subject to the performance of the business over the contract period.
- 3.6 The Monitoring Officer and s.151 Officer are authorised to put in place all of the necessary arrangements to give effect to the agreed recommendations to include entry into the necessary legal arrangements and expenditure of the amounts described from existing budget provisions.

Wards Affected	All Wards
Portfolio Holders	Cllr Chris Boden, Leader of the Council and Portfolio Holder for Finance Cllr Sam Clark, Portfolio Holder for Leisure
Report Originators	Phil Hughes, Head of Leisure Services Carol Pilson, Corporate Director Peter Catchpole, Corporate Director Amy Brown, Chief Solicitor

<p>Contact Officers</p>	<p>Paul Medd, Chief Executive  <a href="mailto:paulmedd@fenland.gov.uk">paulmedd@fenland.gov.uk</a></p> <p>Carol Pilson, Corporate Director  <a href="mailto:cpilson@fenland.gov.uk">cpilson@fenland.gov.uk</a></p> <p>Peter Catchpole, Corporate Director and Section 151 Officer  <a href="mailto:petercatchpole@fenland.gov.uk">petercatchpole@fenland.gov.uk</a></p> <p>Phil Hughes, Head of Leisure Services  <a href="mailto:phughes@fenland.gov.uk">phughes@fenland.gov.uk</a></p> <p>Amy Brown, Chief Solicitor  <a href="mailto:abrown@fenland.gov.uk">abrown@fenland.gov.uk</a></p>
<p>Background Papers</p>	<p>Urgent Decision Notice and Supporting Documents 1/5/20  Cabinet office; Procurement Policy Note – Recovery and  Transition from COVID-19. June 2020</p> <p>UK Active Covid Impact Report June 2020</p> <p>Post Lockdown Recovery survey</p> <p>Freedom Specific customer information from UK Active Survey</p> <p>Modelling reopening of Freedom Leisure Facilities - FDC expected  approach to the business</p> <p>Swim England draft Covid Secure operating regime</p> <p>Customer Insights; My Customer lens feedback</p> <p>UKActive Press Statement 23 June 2020</p> <p>Confidential Freedom Leisure letter to FDC regarding financial  viability.</p> <p>Confidential Freedom Leisure modelled income and expenditure</p> <p>Confidential Revised modelled income and expenditure based on  UKActive survey data</p> <p>Confidential Leisure Operators base trading account</p> <p>Confidential Leisure operators 2020 / 2021 projected accounts</p>



## **2 Pre-Covid Financial Summary**

- 2.1 Expected income for 2020/21 for the Fenland leisure centre contract was budgeted at approximately £3.5m - an average of just under £300,000 per month. Staffing costs are around £149,000 per month.
- 2.2 Freedom Leisure pays the Council a management fee of £450,717 p.a. (£37,560 per month).
- 2.3 Savings from Freedom's operation and management of the leisure centres are approximately £400,000 p.a. with 14 years left of the contract to run this equates to £5.6m in savings for FDC over that period, when compared with the previous in-house management and delivery costs.

## **3 Key Issues; Covid19 Business Impact**

- 3.1 The impact of Covid19 on the leisure sector has been profound and immediate. Customers have been unable to attend due to the change in law. Freedom has furloughed most staff. Income since closure has been negligible. Limited Freedom Head Office staff are not furloughed, but have taken a 25% salary reduction to support the business.
- 3.2 Independent leisure operators have written to clients requesting support. Freedom is not the only national leisure contractor in this position. Across the District Council's Network approximately £305m is required by Councils to support leisure service Covid costs. Sport England is reporting a deficit in excess of £1bn across the sport and physical activity sector. Of Freedom Leisure's 19 council clients, all have supported the business in Phase I of the Covid crisis in broadly a consistent manner.
- 3.3 In Phase I of the Covid crisis, Freedom was facing 'extreme viability challenges' and without the prompt support from clients Freedom's assessment is that the company would have failed by this point.
- 3.4 FDC's contract with Freedom includes a change of law clause stating that in the event of a change in law, Freedom should be no better and no worse as a result of such a change. FDC is obliged by the contract and Government guidance to provide support during the Coronavirus crisis.
- 3.5 It is anticipated that further financial support may be required following the initial reopening period of leisure centres. Once income levels are back to original contracted levels or legal restrictions on business operations are lifted, the Council would then expect to see the management fee back to its original contracted level, possibly by April 2021.
- 3.6 It is proposed that the financial support package between Freedom and the Council is structured as a long term loan unless and until the current contract is varied so that;
  - When income performance levels reach those agreed in the original LOBTA, profit generated above the LOBTA level will then be shared 25:75, with the Council receiving the larger share as the loan repayment of Phase II support monies (including deferred management fees) and the deferred management fees from Phase I.
  - Should the support payments loan (including deferred management fees) be settled prior to the end of the contract, the contract shall revert to the original profit share mechanism.

- 3.7 It should be noted that the Council is ambitious to regain the financial support identified in this report using this mechanism. However, the Council recognises that repayment levels are uncertain due to the nature of future income levels, determined by customer demand.

#### **4 Options and Risks**

- 4.1 Members agreed prior to the outsourcing process that they wished leisure centres to continue to run in each town.
- 4.2 Freedom is providing the service of managing the leisure centres on Fenland's behalf, but this arrangement it is very much a partnership. Whilst Freedom Leisure is an expert in this field, it is important for both organisations to work collaboratively to achieve the common objective of reinstating and continuing to improve leisure services.
- 4.3 If Freedom fails, then FDC's short term costs will increase by at least £500,000 p.a. and FDC would be taking back the health and safety risk, staff management, accountancy and payroll functions, administrative functions and human resources of over 100 staff. Staff restructures took place in back office teams to reflect leisure being outsourced. These additional costs would have to be added back into the FDC budget to support any in-house change. It will not be possible to find an alternative provider of the Service at short notice.
- 4.4 Should Freedom fail as a result of Covid 19, FDC will not realise the £5.6m of savings over the outstanding period (14 years) of the contract. FDC's current MTFS highlights the requirement to find £1.1m in savings by 2024/25 as well as consideration of the added uncertainty of Covid 19, fairer funding, new homes bonus and business rates retention. If the Freedom contract ceases and FDC brings the service in-house this will add an additional revenue cost of £500,000 per annum to the Council.
- 4.5 Further to paragraph 4.1, should Freedom fail and the planned savings of the Freedom contract are not possible, the Council may need to reconsider the strategic approach to leisure centre provision in Fenland. Such a review may mean that the current level of provision across the four towns would need to be re-visited reflecting financial challenges.
- 4.6 Fenland District Council is one of 19 Councils who have a contract with Freedom Leisure. Financial relief packages have been agreed with each of the 19 Councils for varying periods of time and values commensurate with the value and length of the respective contracts. Similarly to FDC, each other Council is also keeping the circumstances of support under review and to an extent, the success of any individual Council's contribution is contingent upon the support being given by others. This remains a potential risk factor which will need to be monitored and this has been factored into the overall assessment of financial risk appended at Confidential Appendix II.
- 4.7 Due to the unprecedented nature of the current situation and the overall fragility of the industry and this stage in recovery process, the Council faces inevitable risks whatever decision it takes.

#### **Contractual Options Appraisal:**

- 4.8 If FDC withdraws its support to Freedom it will be in breach of contract entitling Freedom to give notice and claim any associated penalties in addition FDC will face the financial costs of the service brought back in house or retendered.

- 4.9 If FDC itself serves notice under the contract there would again be financial implications associated with assuming responsibility for the service or retendering together with a penalty of up to 12 months loss of opportunity payable to Freedom.
- 4.10 If the Council attempts to negotiate a reduction in the currently proposed relief package such that only partial support is provided, it will impact on the services that can be delivered and would therefore put Freedom in a disadvantageous position in terms of re-establishing its competitive position in the market and ultimately the level of profit required to offset the payments made.
- 4.11 If the Council provides the relief package on the terms identified, due diligence suggests that this will put Freedom in the best possible position to reopen and react to increasing demand and competition. Nevertheless, it is acknowledged that there remains a possibility that trends will not evolve as predicted which could result in a requirement to remodel the proposed operational model and / or ultimately to revisit the relief package. Of all the options however, this is the one which provides Freedom and the Council with the best opportunity to work towards the realisation of the originally predicted savings and programme of improvements originally planned for the benefit of our community.
- 4.12 In conclusion, whilst we remain in a position of uncertainty, a further relief package will provide an opportunity to maintain the status quo until more informed decisions can be made about the future of the leisure industry following the relaxation of the restrictions and as people adjust to the new normal. Whilst it is recognised that the recommendations have a significant budgetary impact, every effort will be made to recoup the costs through government funding and as part of the proposed amendments to the contract by way of loan repayments. It also avoids the wider implications of taking the leisure centre service back in house where the effect would be evident not only in budgetary terms but also in relation to the level of service that could be provided.

## 5 Options Appraisal; reopening leisure centres; August - September 2020

- 5.1 Freedom Leisure has always been clear with the Council; the leisure centre service is managed by Freedom on behalf of the Council, and as our service to the community, Freedom is keen to carry out the Council's requests.
- 5.2 The remobilisation of the facilities is a complex situation with income levels based on survey data and modelling. There is a potentially wide variation in income levels with FDC retaining financial liability at this point.
- 5.3 The degree of uncertainty is not familiar to the Council; a usual approach is to work within tight tolerances, with minimal risk levels. The level of uncertainty in the current situation is unusual.

To assess and mitigate the risk to the Council, FDC has received information from Freedom regarding;

- Freedom Leisure's ongoing financial situation, including reserve levels, provided in the [Appendix](#) to this report.
  - An assessment of the approach of other Freedom Leisure Local authority clients. All 19 clients supported the business in Phase I of lockdown. This information is coming from other Councils directly as their own situations evolve.
  - FDC has secured a small Sport England grant to engage a third party consultant to support the ongoing work with Freedom. This gives the Council a window on other contractors approaches, as well as other Council's approaches to remobilisation and gives the Council a third party view on the approach that we are taking.
- 5.4 The Council, working with Freedom Leisure and our independent consultant, FMG Consulting has determined that the following approaches are possible when considering the reopening of the facilities. These options, other than Option A, are all subject to Covid 19 Risk Assessments and operational procedures being in place for each facility, sufficient staff training having taken place and that management of the facilities is as safe as is reasonably possible for both customers and staff. Such risk assessments and operational procedures are currently being developed and will depend on Government guidance - yet to be published.
    - Option A: Continue to mothball the facilities until the end of the Job Retention Scheme.
    - Option B: Reopen all leisure centres as soon as possible, back to their original opening hours.
    - Option C: Reopen certain facilities, whilst keeping others closed to reduce costs.
    - Option D: Phase reopening hours, led by expected demand.
    - Option E: Phased reopening hours, coupled with a phased activity reopening.
  - 5.5 **Option A: Continue to mothball the facilities until the end of the Job Retention Scheme (JRS)**

This approach has been considered, as demand initially is expected to be low and potentially customers will be nervous of re-engaging with the service. Coupling lower demand with the certainty of the Job Retention Scheme will give the Council cost certainty.

When comparing the expected cost of remaining closed in August and September with Option E (a phased reopening of activities and facility opening hours) it is clear that, due

to the changing nature of the JRS with employers having to part fund furlough, the difference in financial situation is immaterial as demonstrated in the table below;

	August	September
Closed cost	93,455	93,455
Open cost (using a phased approach described in Option E)	101,385	96,581
Difference (negative is an increased cost to FDC)	-£7,930	-£3,126

The Council recognises that opportunities to be active are important to reduce health inequalities that exist across the County, particularly in Fenland. It is important for the physical and mental health of our communities that the leisure centres reopen, giving the community the opportunity to increase their activity levels, as well as giving them the opportunity to begin to bring their lives back to the 'new normal.'

Although remaining closed appears slightly more attractive financially, this is a short term financial gain that is likely to then lead to longer term costs for the Council. It is considered that reopening facilities when the Government allows, will represent best value to the Council, despite a short term higher cost.

If competing facilities open in August, the Freedom facilities will lose members. Additionally, members who may have decided to return might then decide to leave, not due to a competitor, but due to the facilities remaining closed. Within the business keeping members is much easier than attracting back old members or encouraging new members.

It is considered that remaining closed would prove more costly in the following months than a phased reopening approach. The impact of losing excess direct debit members from the leisure centre business can be highlighted with the following analysis;

Membership costs £33.50 per month with a membership average lifespan of 20 months.

If, by remaining closed for 1 month, Freedom loses an extra 100 members per facility, this is a 1 month cost to the business of £13,400 – considerably more than the cost of reopening in August.

Direct debit membership is key to the successful financial management of the leisure facilities. Enhancing or protecting direct debit membership levels is critical to the longer term success of the business and the contract.

## **5.6 Option B: Reopen all facilities as soon as possible, back to their original opening hours.**

As demand will take some weeks to ramp up, reopening facilities immediately to their original opening hours, with all facilities open will cost the Council considerably. Demand

and income levels will be reduced, whilst costs (staffing, heat and light) will rise dramatically on reopening.

Whilst JRS is available, continuing to furlough some staff, whilst re-activating others in a phased manner makes financial sense.

It is considered that this option is not viable and would add considerable costs to the Council - to open lightly used facilities.

#### **5.7 Option C: Reopen certain leisure centres, whilst keeping others closed to reduce costs.**

It is considered that the rationale for opening specific leisure centres in certain towns whilst keeping others closed would be difficult to justify to the community. In addition, keeping specific centres closed will also impact on the membership incomes once those centres reopen (as covered in Option A). Phasing the reopening of each facility at the same time mitigates these two issues, and as a result this option is discounted. The differences in individual centres running costs per month may be reviewed in section 6.13.

#### **5.8 Option D: Phase reopening hours, led by expected demand or**

#### **Option E: Phase reopening hours, coupled with a phased activity reopening - led by expected demand**

These two options are more tailored to the market and service, and as such are expected to deliver best value to the Council with regard to both short term costs and the longer term financial performance of Freedom Leisure through membership retention and growth.

Option D would mean an opening of all available activities within the centres during specific, busier opening hours, with the opening hours expanding as demand grew. This would mean un-furloughing many staff to ensure all activities could open. This approach then adds staff cost at a time of lower demand when income will not approach the levels of cost.

Additionally, the Freedom Team needs to be confident delivering a Covid secure service and this confidence must be reflected to customers. Opening all facilities initially is considered a difficult proposition. Staff confidence issues and any errors would reflect poorly on the service and impact on the confidence of customers - leading to a slower rate of increase in membership and income after reopening.

Given these concerns, Option D - opening all activities initially - is also discounted.

Option E appears to be a more realistic choice. This option allows for all centres to reopen, initially during busier periods, with opening hours expanding as demand increases. Additionally, the activities available in each centre will also re-open in a phased manner as described in more detail under 5.12), targeting the more easy to manage activities initially, and adding other activities on a weekly basis. This approach allows for judicious use of staff, keeping costs low. It also ensures that the teams in place build confidence in working in a new manner, passing that confidence onto clients allowing the business to grow income and membership levels.

#### **5.9 Following the assessment of the potential options, modelled costs have been developed for Option E, as well Option A - the continued closure of the leisure centres.**

As well as managing the four leisure centres, Freedom provides an Active communities officer. During the furlough period it is considered prudent to keep the post furloughed at a low cost to FDC - see 6.13).

## 5.10 Remobilisation

Remobilisation is a complex task with both parties committed to getting the leisure facilities up and running again, earning income, but as efficiently as possible. This being the case a phased approach is to be taken initially based on limited facilities and limited opening hours. More facilities open week on week and if customer numbers rise as expected, then opening hours will become longer to accommodate those customers.

5.11 Opening hours will initially be restricted to:

- Week 1 opening hours:

	Morning	Mid-day	Evening	Hours per weekday	Weekends	Hours per weekend day
All centres	7.00am – 10.00am	Closed	4.30pm – 8pm	6.5	8am – noon	4

Subject to Government guidance, the facilities are expected to open as follows;

Pre-booking for some activities may be necessary to ensure limited queuing and that staff teams can plan what to expect.

The facilities available and the opening hours are likely to be flexible, depending on demand, but will not be fewer than those described here.

Soft play and sauna and steam rooms to remain closed.

- **Week 1:**

All 4 gyms to open to encourage members back in and raise confidence in the service. Social distancing in place per guidance, with capacity in each facility limited accordingly.

Sports halls open for badminton (subject to classes below) & managed activities where social distancing is possible

Classes (including spin) to reopen, socially distanced, and only the popular classes during the opening hours.

Consider relocation of Hudson classes to gym 'extension' and Sports Hall

Consider locating classes outside where possible, weather dependent.

Costa @ Hudson open

Swimming Clubs return

Potential for pool use either side of swimming club use - subject to demand

- **Week 2 (or when permitted by Government)**

Open for formal opening of managed swimming sessions

- **Week 3**

Add limited casual swimming sessions in week 3

Managed numbers and only more popular sessions initially.

There remains uncertainty around the resumption of the learn to swim programme following reopening.

- 5.12 It is possible to model **costs** of the service to some certainty as they are a known quantity.
- Approximations of costs have been made in month 1 of opening, as actual requirements for heat, light repairs etc will not be certain.
  - Staffing costs are certain in week 1, but will be altered as the number of activities increase and the facilities open for longer. This will be dependent on demand. Opening the facilities to limited numbers of customers will add cost to the Council, so tight monitoring of the customer demand by Freedom and FDC contract monitoring staff will be required to ensure that a balance is made that is as efficient as possible.
- 5.13 Consideration has been made of keeping facilities closed whilst the furlough scheme is available in August and September. Whilst this approach is marginally cheaper for the Council, it is considered that a longer term view of the business will be a more financially beneficial approach - as highlighted in 5.5. Opening and recouping members as soon as possible from when Government allows reopening will be preferable to the risk of having customers either cancel memberships or worse, move to competitors if the facilities do not open. This also allows Fenland's community to start their journey back to the new normal, enjoying exercise once again and improving their mental health, in a safe and well-managed environment.
- 5.14 Modelling income levels is far more difficult than expenditure. UKActive has carried out a large survey (65,000 people) to determine the level of visits to leisure facilities once they open again. The results are as follows, with this throughput data used to model income levels in the Fenland facilities.
- 5.15 It should be noted that this is **modelled income**, based on a national survey. **The degree of certainty is low, with this being the best information available to the industry on which to model income.**



## 6 Freedom Leisure / Fenland District Council – Business Recovery modelling

6.1 This work uses modelled income levels to predict the financial impact of a phased reopening of the Freedom Leisure centres in Fenland from August 2020. This work is based on information in the UKActive COVID-19 Impact Report that expected a reopening in July 2020. As a result of the 23 June Government statement, re-opening is now expected later in July or early August (See [Appendix III](#)).

The charts below have had the reopening month altered from the original chart date of July. The week numbers across the years 2020 and 2021 have not been altered; please take this into account when considering the charts.

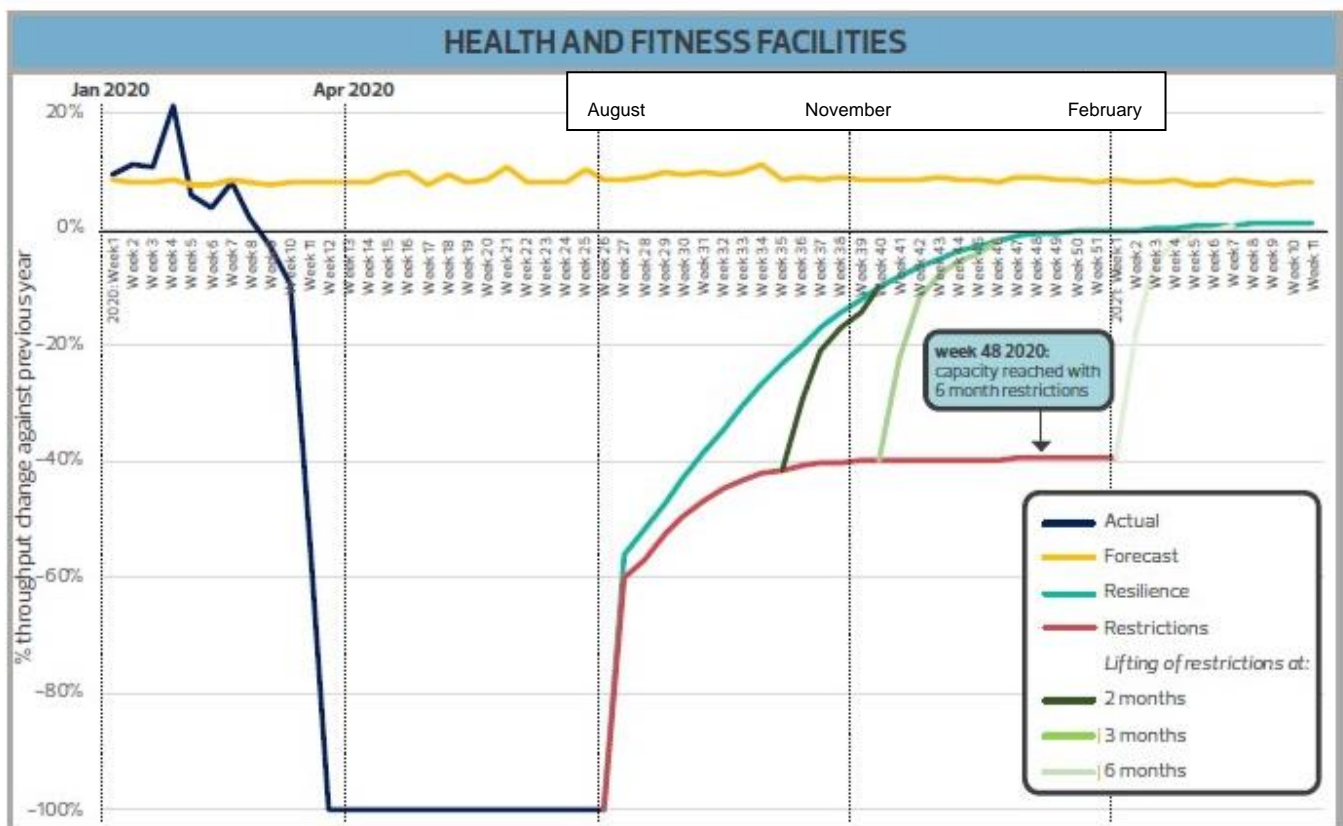
The original report is embedded in this document as an [Appendix](#).

6.2 Throughput (i.e. attendances) growth in the leisure industry was predicted to be 5.7% in 2020 when compared with 2019 levels.

6.3 With no restrictions (i.e. social distancing) in place within facilities, the expectation is that throughput (i.e. number of attendees) would recover along the blue line on each chart (below). However, restrictions for social distancing will be in place throughout all facilities and will be fine-tuned as the Freedom team and their customers understand how to operate the restrictions as efficiently as possible.

6.4 To be prudent, Fenland will use the middle option for restrictions being lifted – i.e. they will be lifted after month three of being open – i.e. marked as early October on the charts, but following the government announcement of 23 June, now expected to be as much as a month later – i.e. early November. Recovery for each key aspect of the leisure business is therefore expected to recover initially along the red line, then branching up the green line with the change in restrictions.

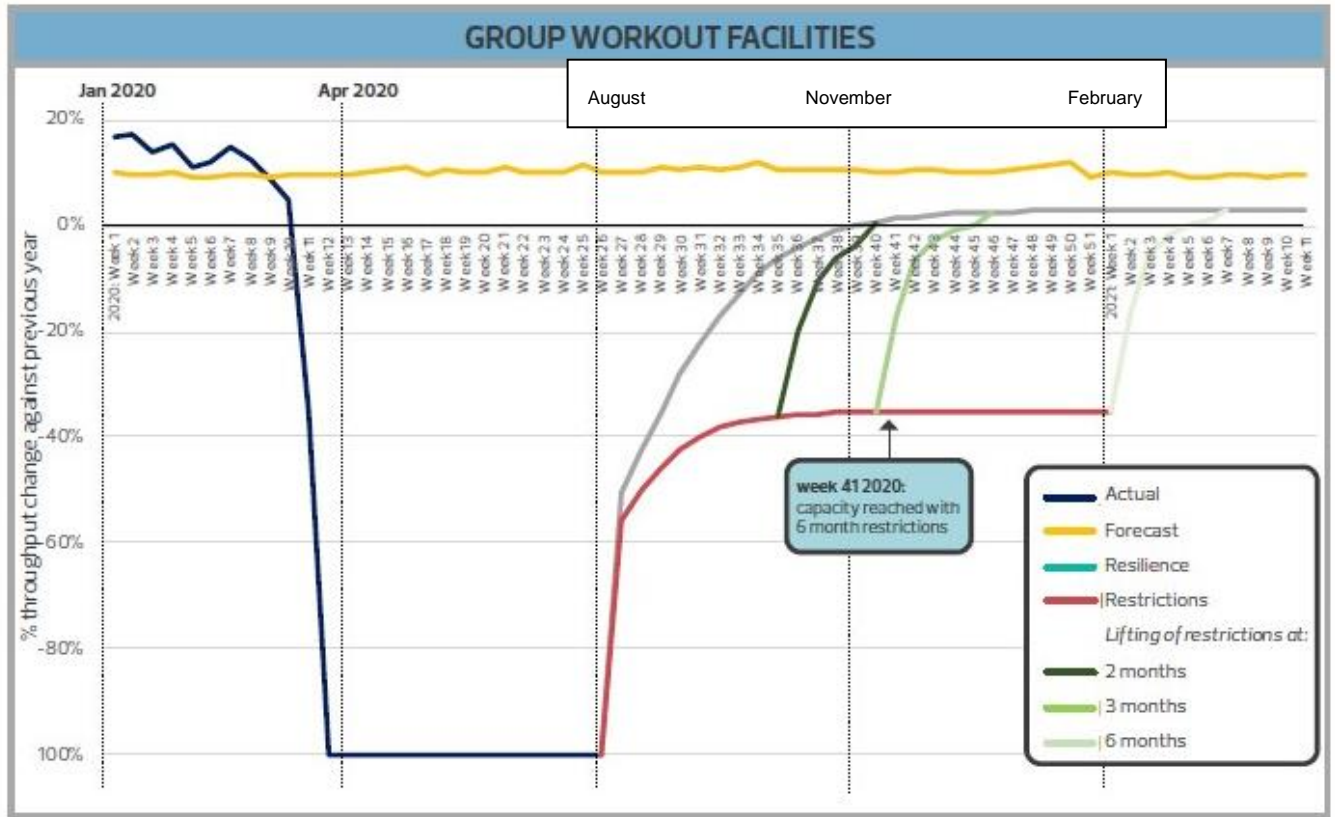
### 6.5 Gym Recovery profile



### 6.6 Gym Recovery profile – August 2020 to September 2020

	Weeks 1 -2	Weeks 3 – 4	Weeks 5 – 8	Weeks 9-12
% income received	40%	47%	57%	61%

### 6.7 Fitness Class Recovery profile

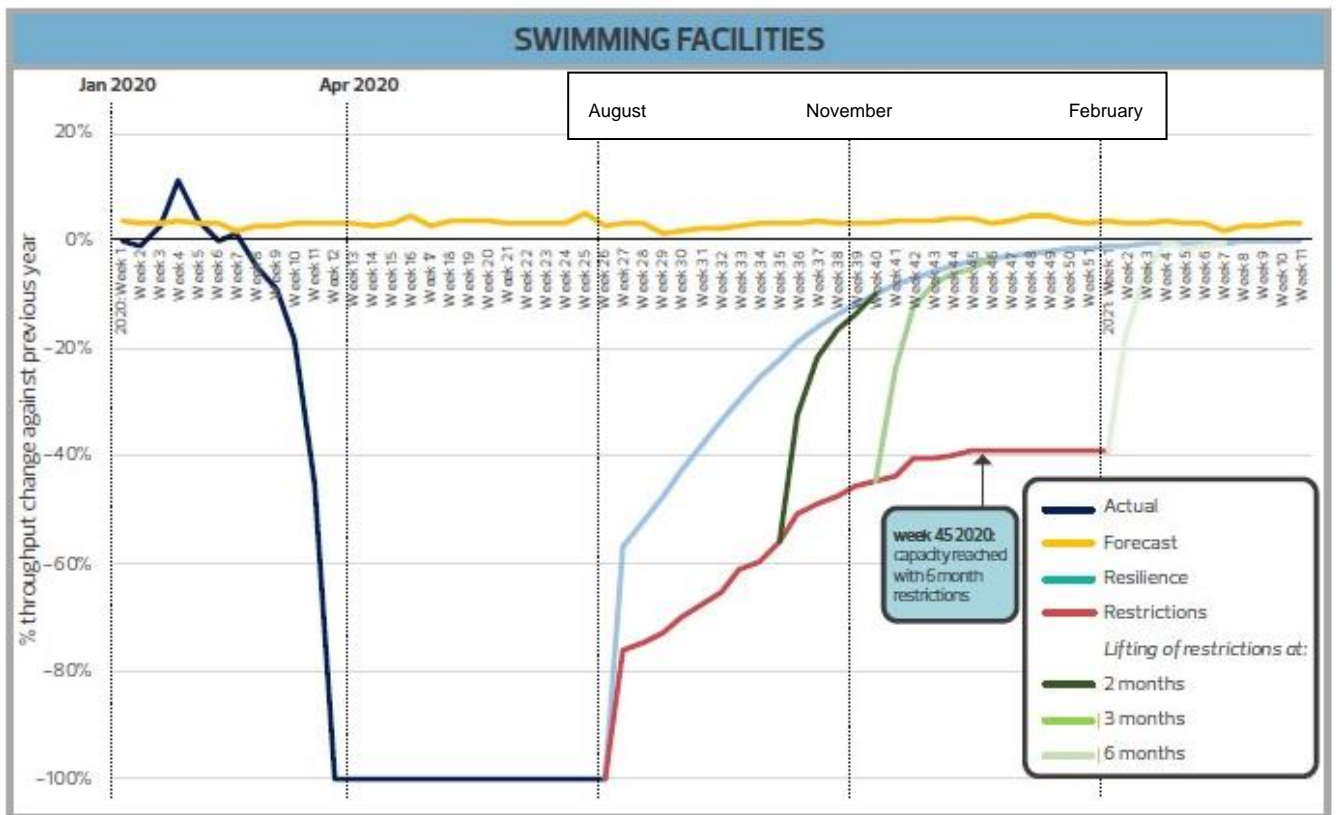


### 6.8 Fitness Classes Recovery profile – August 2020 to September 2020

	Weeks 1 -2	Weeks 3 – 4	Weeks 5 – 8	Weeks 9-12
% income received	44%	52%	60%	62%

6.9 **Swimming Recovery profile:**

6.10 Model is based on restrictions for people aged 70+ and the removal of swimming lessons due to changing room issues. It is anticipated that swimming lessons may be able to run on opening, improving the recovery profile considerably, but data is not available to support that assumption at this time.



6.11 Recovery profile – August 2020 to September 2020

	Weeks 1 -2	Weeks 3 – 4	Weeks 5 – 8	Weeks 9-12
% income received	20%	28%	34%	46%

## 6.12 Financial impact on Fenland District Council

Assumptions;

- Using the attendance data (above) from the UKActive modelling as income levels in the Fenland contract
- No lift in social distancing restrictions within the timeframe for this report
- Opening date: August 2020
- Phased approach to re-opening both in terms of opening hours and activity availability to keep costs as low as possible as demand ramps up

Freedom initially modelled costs of the phased re-opening approach. Fenland has adjusted those initial estimates based around the modelled attendance figures from UKActive. Despite the re modelling, both estimates are within 10% of each other. This adds limited assurance that both parties expect similar results in Phase II.

The assumptions above and the previously expected performance of the contract has allowed the modelling of costs and income based on the phased reopening plan. FDC has reviewed Freedom's expected costs and cost assumptions and considers that the table below is a realistic financial model based on information available. Depreciation has been removed from this modelling.

The impact of the modelling on the expected budget for the Fenland contract is as follows:

<b>Fenland Contract - Variance to Normal Trading</b>				
<b>Phased reopening from August</b>	<b>Jul-20</b>	<b>Aug-20</b>	<b>Sep-20</b>	<b>Total</b>
<b>Variance to a neutral position</b>				
Hudson	Closed	- 19,087	- 18,445	
Manor	Closed	- 21,129	- 20,924	
Chatteris	Closed	- 10,125	- 7,309	
George Campbell	Closed	- 17,138	- 15,543	
Active Communities	Closed	- 41	- 496	
<b>Variance to Budget</b>		<b>35,930</b>	<b>67,520</b>	<b>62,716</b>
Insurance, irrecoverable VAT, head office overheads		<b>33,865</b>	<b>33,865</b>	<b>33,865</b>
<b>Total</b>		<b>69,795</b>	<b>101,385</b>	<b>96,581</b>
<b>FDC Funded by;</b>				
Management Fee Deferred		£37,560	£37,560	£37,560
Loan of a cash payment		£32,235	£63,825	£59,021
		£69,795	£101,385	£96,581

6.13 It should be understood that this information is based on modelling, that itself is based on customer surveys. It is the best current information on which we have to base estimates but we will not know true income levels until the centres reopen. The Council should be clear that there is a risk that these costs could be higher than anticipated.

6.14 It should be noted that the exceptional operational costs are expected to reduce month on month, and with the anticipated increase in income levels as a result of restrictions being lifted, the cost to the Council of the contract in future months are likely to be significantly lower than those for July – September. This lifting of restrictions is, of course, dependent on Government and Covid levels.

6.15 The total value of financial support comprises:

Phase II Freedom support summary July - September 2020;

Deferred Management Fees (para 3.1) £112,680

Cash support (para 3.3) £155,081

Total £267,761

Phase I support costs (April - June) £277,668

Total Phase I and Phase II costs £545,429

FDC has an ambition to recover this Phase II support loan by entering into a variation to the original agreement as described in the recommendations. The deferred management fees of £112,680 from Phase I are to become repayable on a monthly basis at a rate to be agreed between years 5 and 15 of the contract.

6.16 It should be noted that the Council is ambitious to regain the financial support identified in this report using this mechanism, but repayment is uncertain due to the uncertainty surrounding future income levels and customer demand.

6.17 It is also worth noting that Freedom is a not for profit trust. Any 'profit' from the Fenland contract is reinvested in the business. Reduced profit levels, due to repayment of the financial support will have an impact on reinvestment in the business over the period of the contract.

## 7 **Appendix I**

UkActive Covid 19 impact on the leisure centre industry



ukactive-COVID-19-I  
mpact-Report.pdf

## 8 **Confidential Appendix II**

FDC Internal Audit financial risk assessment of Freedom Leisure

## 9 **Appendix III**

UKActive Statement of 23 June 2020



ukactive statement on  
gyms reopening date.;

**COVID-19 Impact Report**  
The Fitness and Leisure  
Sector's Path to Recovery





# FOREWORD

**Huw Edwards**  
CEO, ukactive



Our sector has shown incredible levels of resilience and fortitude following its closure in March due to COVID-19. Driven by a common goal from the onset of lockdown, the sector has shown an unwavering commitment towards working collaboratively to chart a path back to recovery. Making decisions on the best possible data and insight has been, and will continue be, integral to this resurgence and to the sustained growth of the sector. The spirit of collaboration has been apparent across all corners of the industry and it is because of this that ukactive and 4global have been able to publish this impact and recovery report. We owe a huge and special thanks to all partners involved. Without your openness, shared learnings, and a united desire to support the sector get back on its feet, we would not have been able to set this roadmap.

On 23rd April, ukactive announced a four-stage strategy to support the sector through the challenges ahead. Working with the sector to navigate uncertainty against the backdrop of an ever-changing political landscape – our ability to draw upon a variety of datasets, methodologies, and sector expertise to generate invaluable insight has been vital. This is the foundation of the ukactive Research Institute and has been the driving force and ethos behind this impact and recovery report. During a time of unparalleled uncertainty across our sector, this impact and recovery report demonstrates the duty we have to understand the impact on our sector in the lead-up to closure, recognise how society and its behaviours have changed across the lockdown period, and endeavour to look into the future to guide the sector as we lay the foundations to thrive again together.

Whilst our sector forges a new path and adapts to a new normal, we must continue to collaborate and take responsibility for working together to evolve and understand our true impact on the health of the nation. Our ability to create an environment that celebrates and rewards shared information and open innovation, to break the frame on old ways of thinking, and to trust data-driven decisions to increase the awareness and value of physical activity, to society and to government, is a commitment we must all continue to pursue.

The nation has been affected on unimaginable and unprecedented levels. In this time of uncertainty the health and fitness sector is essential to COVID-19 recovery across our communities. The importance of the nation's health in reducing risk is becoming increasingly clear, pointing towards the central role of physical activity in reducing infection and severity. This is an opportunity that we must capture, to become the constitutional cornerstone for crucial rehabilitation and to improve the health of the nation, from the youngest to the oldest in our communities. Our impact and recovery report charts the path for this and it is our data, insight and an evidence-based approach that will keep us on course to prosper together.

**Utku Toprakseven**  
Partner & Director, 4global

Within our sector we have, for many years, talked about the benefit that physical activity has on health and wellbeing. Through collaboration across the sector and powered by DataHub, we can now evidence this benefit with real-time data and insight, providing a compelling case for ongoing investment and prioritisation. This has never been more important than it is today, as our industry continues its preparations to re-open following forced closure at the hands of COVID-19. It is vital that as an industry we are able to help people build and maintain a consistent level of physical activity, to guard against risks such as COVID-19 in the future. In order to do this, we need to continue to evidence the benefit we are creating, as well as the potential impact that could be felt if delivery organisations are lost as a result of the crisis.

By combining data from a range of industry sources, as well as predictive modelling and consumer behaviour analysis, we have worked with ukactive to provide an evidence-based set of projections that will allow organisations to plan more effectively over the coming months, as well as providing evidence to demonstrate the benefit of physical activity to society as a whole. We would like to thank organisations who contributed to the report, not only in providing evidence and data from their own research, but also in being open in discussing what the future might look like for leisure centres, gyms and sports facilities alike.

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This report explores the impact that the COVID-19 virus has had on the sector in three parts:

**Part One:** looking at how participation at facilities changed in the weeks leading up to lockdown

**Part Two:** discovering what exercise and physical activity has looked like for the public during lockdown

**Part Three:** 4global modelling to understand what participation at leisure facilities could look like as the sector reopens

We'd like to thank our partners and members who have shared data and information to enable us to carry out some of the analysis work in this report.



## SUMMARY

### PART ONE: PRE LOCKDOWN

*This section of the report looks at how participation at facilities changed throughout early 2020, as the spread of COVID-19 intensified. This is analysed using a DataHub sample of over 900 leisure centres.*

- ▶ Leisure facilities enjoyed a strong start to 2020, with weekly participation tracking ahead of the 2019 equivalent for week 1 through to week 8. From week 9 onwards, year on year participation began to fall, slowly at first with a -2% drop off, but this had reached -43% by week 11, the week of the full lockdown announcement.
- ▶ This drop off was more severe for those from older age groups (with a -62% decline for the 75-84 year old group), and those from lower socio-economic backgrounds, evidenced through Mosaic profiles and deprivation index.
- ▶ Some activities saw less of a drop off, with group workouts tracking above 2019 levels right up until week 11, before seeing a drop off of -35%, compared to -45% for swimming and -56% for gym.

### PART TWO: DURING LOCKDOWN

*This section of the report collates data from across the sector to understand how people have reacted to lockdown and how their exercise and fitness behaviours have changed.*

- ▶ Across a sector sample, sales of home gym and fitness equipment have seen some big increases since the week 11 lockdown, with sales of weights equipment in week 13 (early April) over four times greater than the weekly average for 2020.
- ▶ Online classes and virtual resources have been popular, as people have adapted from exercising at physical facilities to exercising at home.
- ▶ Survey results suggest activity levels across the course of lockdown have remained relatively stable (between 3.2 and 3.3 days active per week). There have been differences in activity levels between age groups, with older age groups doing less activity.
- ▶ Walking has been the most popular activity, with home workouts both online and offline also popular. Cycling has been slowly growing in popularity.

### PART THREE: POST LOCKDOWN

*This section of the report uses 4global modelling to project what sector recovery could look like. This considers consumers confidence levels in returning to facilities and potential operating restrictions that could be in place.*

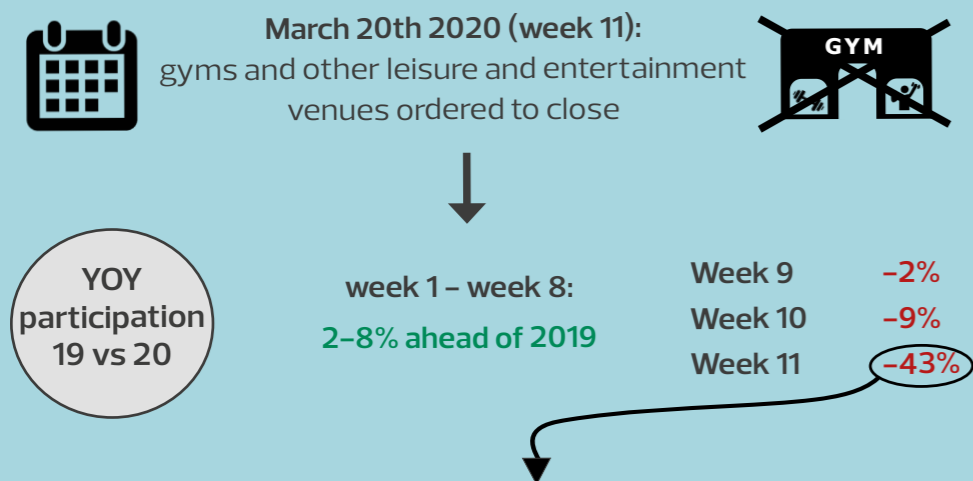
- ▶ Consumer confidence in returning to gyms and leisure facilities has been measured across a variety of surveys. 88% of respondents to a Leisure-net survey to gym members said they would use their facility the same amount, or more than before, once it reopened.
- ▶ Consumer surveys by TA6 Alliance, Sport England & Savanta ComRes and MyCustomerLens also saw high levels of readiness to return to facilities. On the timing of return plans, on average 42% of members say they are likely to return to the gym as soon as it opens.
- ▶ This has been used alongside restrictions on opening conditions (capacity reductions, activity restrictions and user group restrictions), to project what participation will look like compared to 2019 once facilities have reopened. This is based on a July 4th reopening date.
- ▶ Without COVID-19, the forecast growth of the sector in participation for 2020 was 5.7%. The COVID-19 revised forecast with no restrictions opens at -59% in the week after reopening, and with restrictions at -72% (compared to the same week in 2019).
- ▶ With no restrictions in place, the forecast participation compared to the same week in 2019 reaches -40% in week 4, -25% in week 8 and -15% in week 12. Sector recovery slows down at the start of 2021 (week 1) and saturates at -1% compared to last year.
- ▶ Modelling the demand once facilities are able to open with restrictions in place for 6 months, shows a projected return to capacity at weeks 41, 45 and 48 of 2020 (14, 18 and 21 weeks after reopening) for gym, group workout and swimming respectively.
- ▶ The projected lost visits in the year following lockdown exceed 700 million for the sector. Lost visits in the single week one year following lockdown (week 11 2021) are projected to reach 1.8 million.
- ▶ Having restrictions in place for 6 months would result in an estimated £2.1 billion loss in social value generated across the whole sector.

#### A CALL TO ACTION: NEXT STEPS

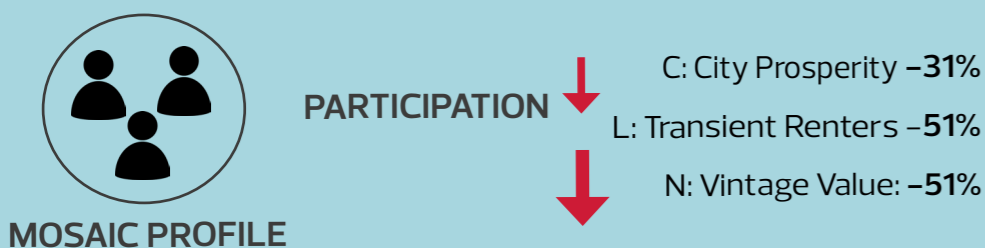
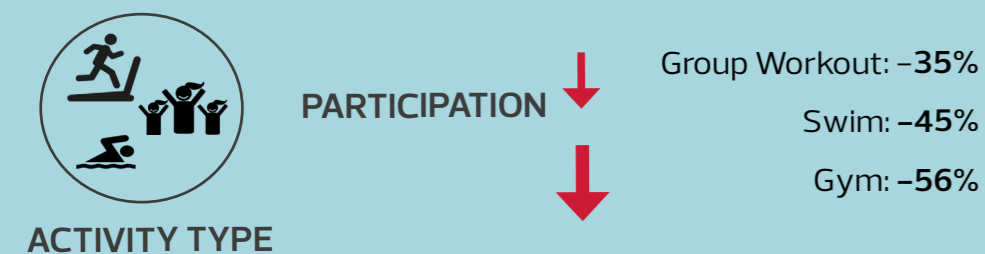
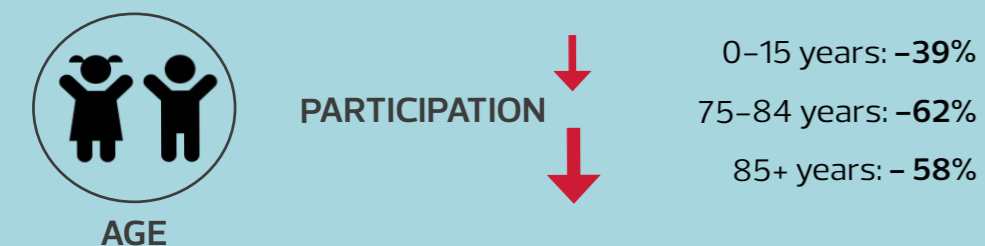
The scenarios presented in this report have been modelled based on the assumption that no action is taken by operators ahead of facilities reopening. There are opportunities for operators to prepare for the situations that will present themselves in the coming weeks and months, both in terms of increasing consumer confidence and establishing how to ensure customers feel safe at facilities, and in re-purposing space such as sports halls and outdoor space to redistribute capacity within a facility. These steps could lead to the recovery rate improving. The model has been created using the available data at this point in time, and data inputs used in the model will continue to be updated as new information is received.

PRE LOCKDOWN: IMPACT

Using weekly participation figures from DataHub from 2019 and 2020 to look at the impact of COVID-19 on participation before lockdown was announced.



-43% overall decline in participation in week 11:



Deprivation has been a strong factor in resilience:



DURING LOCKDOWN: RESPONSE

Looking at how exercise and fitness routines have changed and adapted during lockdown and what people are doing instead of visiting facilities.

**Sales of home fitness equipment**  
Increased throughout March, peaking in early April.

Week 13 weight equipment sales were **4 times the weekly average** for 2020.

**Online and virtual classes**  
Have been popular throughout lockdown, as facility closure has led to people having to find alternative methods of exercising.

**Sport England & Savanta ComRes polling:**  
regular waves of consumer polling have been carried out during lockdown, on a sample of around 2,000 adults.

**Activity levels:**

- ▶ Activity levels fairly stable across lockdown.
- ▶ Average of just over 3 days active per week.

**Social groups:**  
Group A (higher/ intermediate managerial, administrative and professional) more active than group E (state pensioners, casual and lowest grade workers, unemployed with state benefits only).

**Most popular activity:**

- ▶ Walking has been the most popular activity.
- ▶ Around 60% say they have done this in the last week.

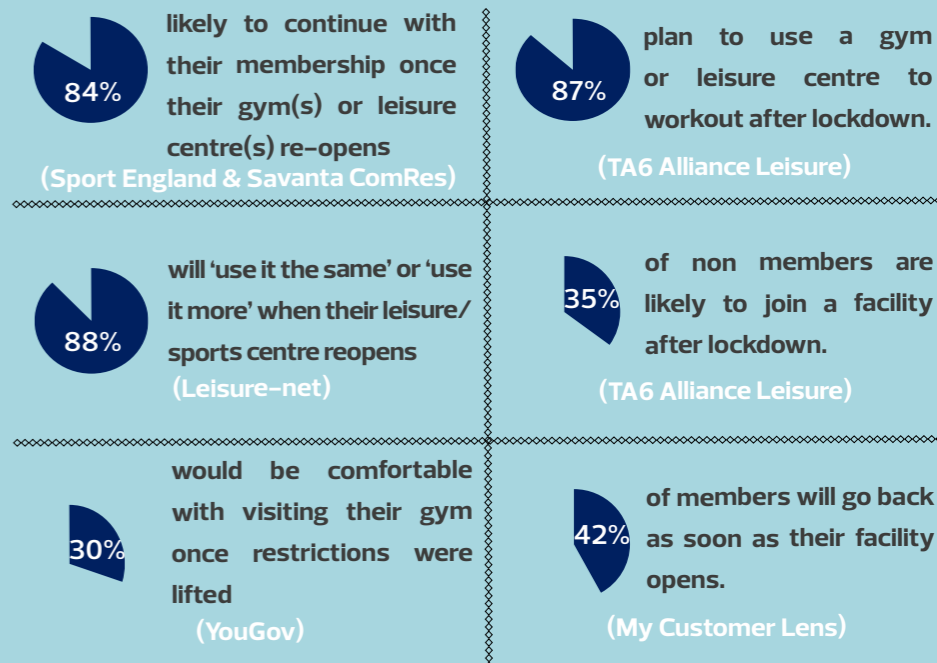
**Other activities:**

- ▶ Cycling has been slowly rising in popularity.
- ▶ Increased from 8% of people doing it in wave 1, to 16% in wave 7.
- ▶ Home workouts, both offline and online, have been popular.

POST LOCKDOWN: RECOVERY

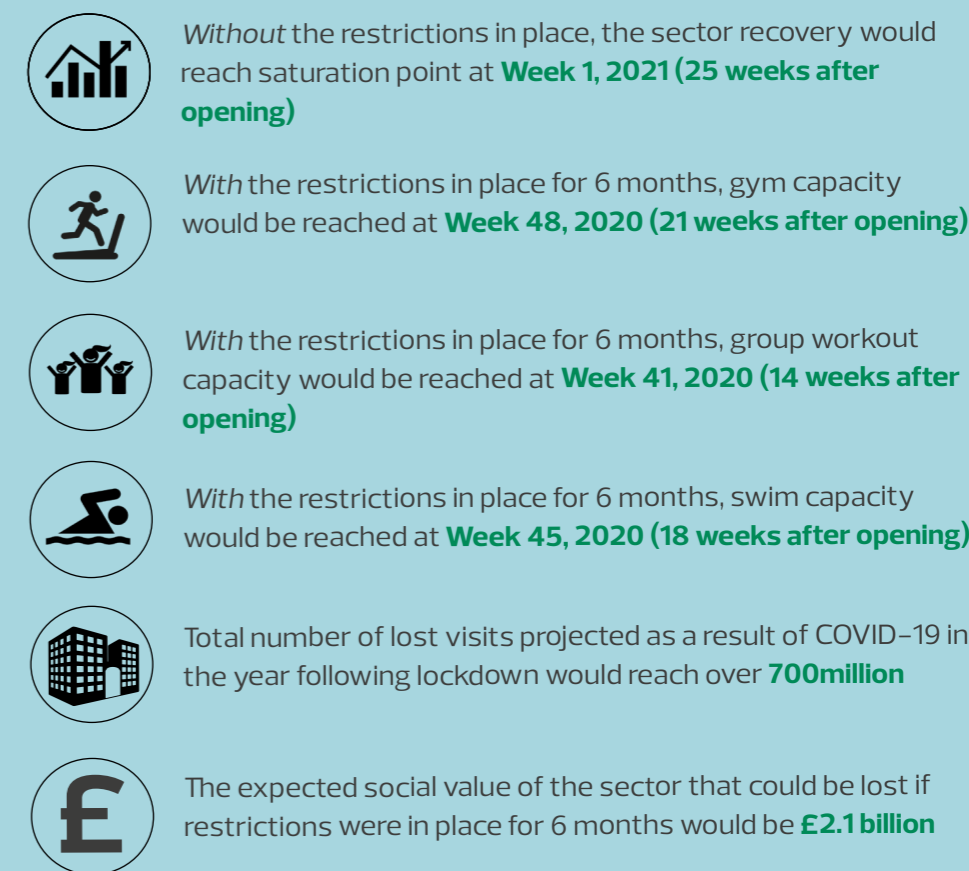
Using 4global modelling to determine demand based on consumer confidence and facility restrictions

Consumer confidence survey results:



Modelling demand under potential opening restrictions:

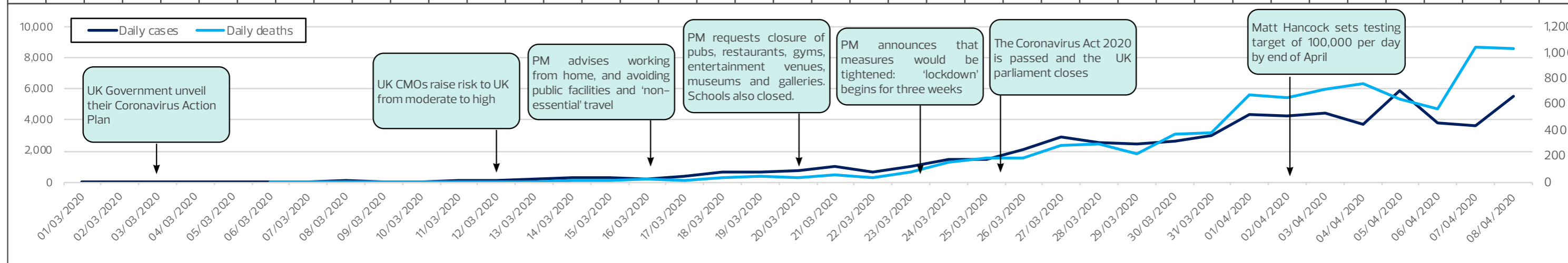
- ▶ Capacity restrictions
- ▶ Activity restrictions
- ▶ Swimming restrictions
- ▶ User restrictions



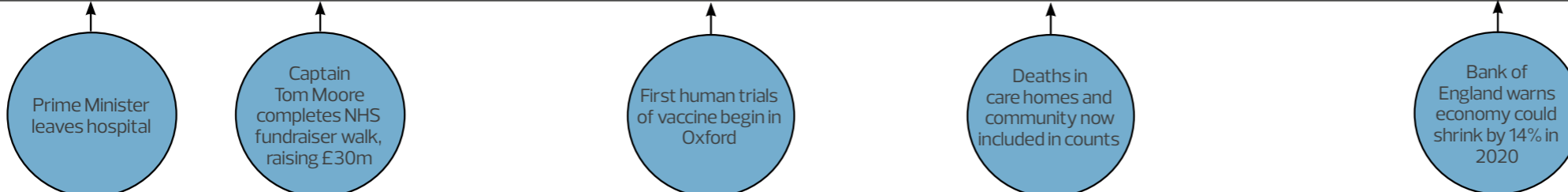
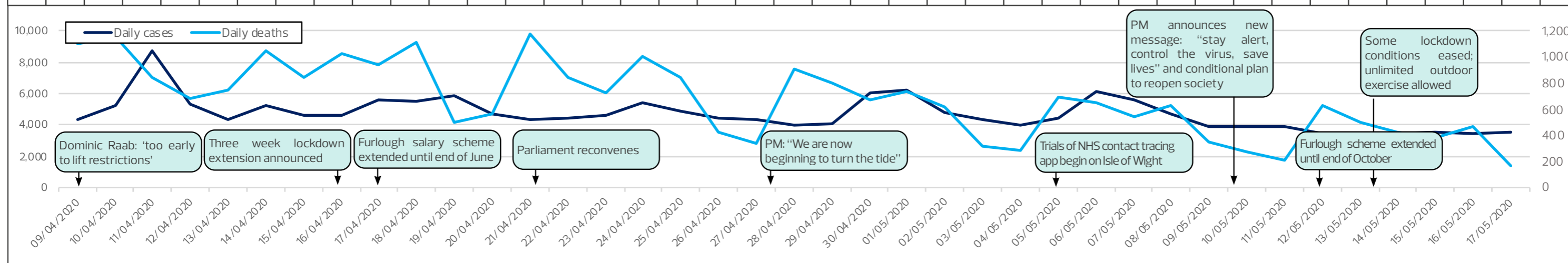
# COVID-19 UK TIMELINE

— Daily cases (left axis)    — Daily deaths (right axis)    ○ Government events    ● Key events

Cases	12	5	11	34	29	46	46	65	50	52	83	134	207	264	330	152	407	676	643	714	1,035	665	967	1,427	1,452	2,129	2,885	2,546	2,433	2,619	3,009	4,324	4,244	4,450	3,735	5,903	3,802	3,634	5,491	Cases
Deaths						1	1	0	1	4	0	2	1	18	15	22	16	34	43	36	56	35	74	149	186	183	284	294	214	374	382	670	652	714	760	644	568	1,038	1,034	Deaths



Cases	4,344	5,195	8,719	5,288	4,342	5,252	4,603	4,617	5,599	5,525	5,850	4,676	4,301	4,451	4,583	5,386	4,913	4,463	4,309	3,996	4,076	6,032	6,201	4,806	4,339	3,985	4,406	6,111	5,614	4,649	3,896	3,923	3,877	3,403	3,242	3,446	3,560	3,450	3,534	Cases
Deaths	1,103	1,152	839	686	744	1,044	842	1,029	935	1,115	498	559	1,172	837	727	1,005	843	420	338	909	795	674	739	621	315	288	693	649	539	626	346	268	210	627	494	428	384	468	170	Deaths



Data on cases and deaths has been extracted from the [worldometers tracker](#) which uses daily updates from the Department for Health and Social Care.

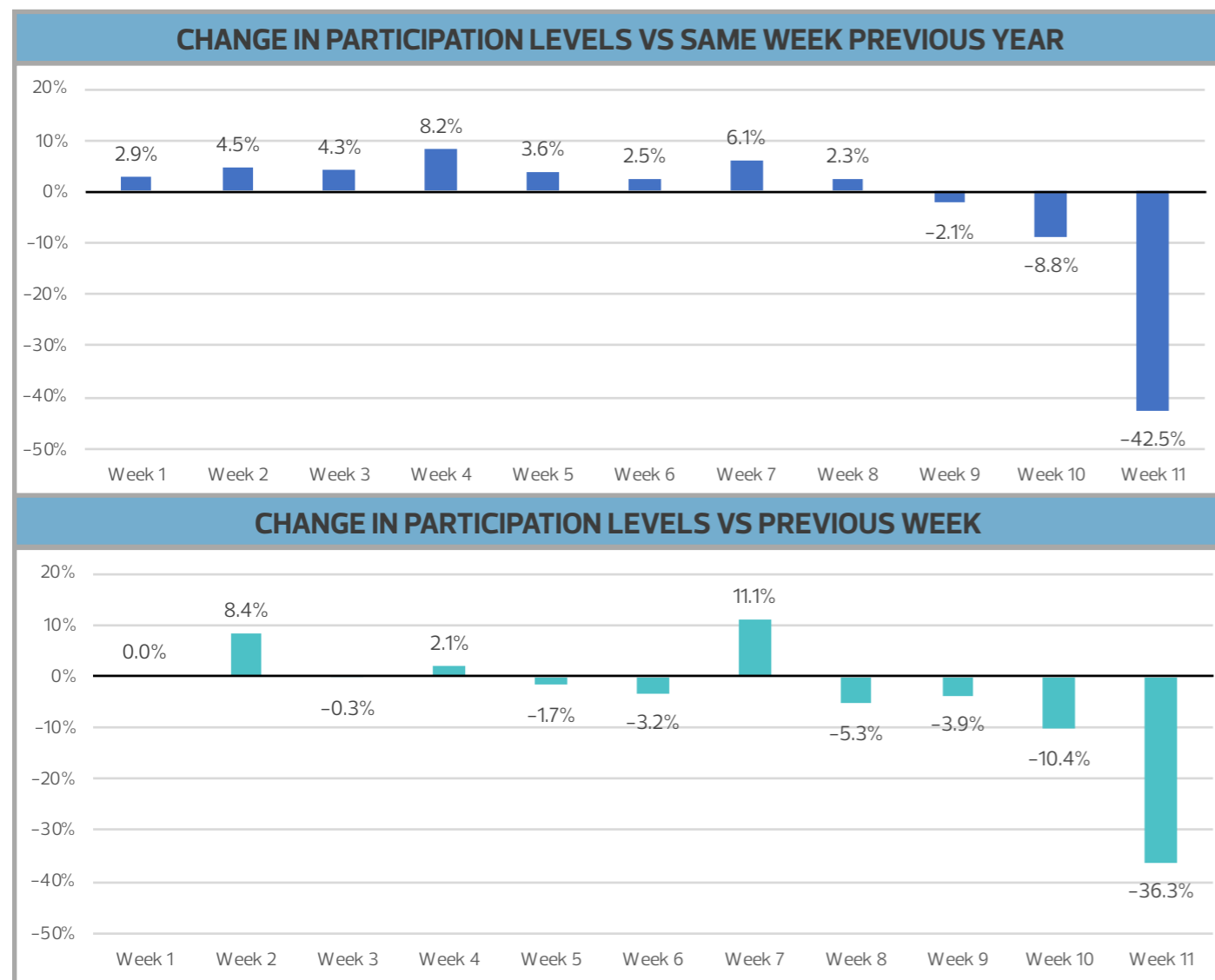
## PART ONE: PRE LOCKDOWN



*This section of the report looks at how participation at facilities changed throughout early 2020, as the scale of the crisis mounted and COVID-19 began to take a grip in the UK.*

The first cases of COVID-19 emerged on UK soil at the end of January, and although it was to be nearly three months until the nation was put under lockdown conditions, the impact on our daily lives began to show before this. Social distancing changed the way we were able to exercise, with further restrictions added when the Prime Minister ordered the closure of all gyms and leisure centres on March 20th. The data in this section is a DataHub sample from 903 leisure sites across the UK, covering 2.0 million members and 38.2 million visits. This covers the first 11 weeks of 2020, leading up to the point of lockdown, and is compared to the equivalent weeks in the previous year.

### OVERALL PARTICIPATION



These graphs show that during the early weeks of 2020, participation at facilities was ahead of last year, with weeks 1 to 8 all showing an increase in visits against 2019. This was most notable in week 4, which was 8.2% higher than 2019. Whilst weeks 5 and 6 saw participation increases compared to last year, the growth rate declined, with this timing corresponding to the first UK cases of the virus. Week 7, in late February, saw higher growth, around the time of positive government messaging on using facilities. The first week that saw a decline against last year was week 9 (commencing March 2nd), followed by a more dramatic drop off of -8.8% in week 10. By the time facilities had been ordered to close in week 11 (commencing March 16th), participation was -42.5% down on last year.

### THE DATASET

**Number of sites:** 903 leisure centres across the UK

**Number of people:** 2.0 million

**Number of visits:** 38.2 million

**Week 1:** week commencing January 6th

**Week 11:** week commencing March 16th

**Facilities ordered to close:** March 20th (week 11)

### GENDER DIFFERENTIALS

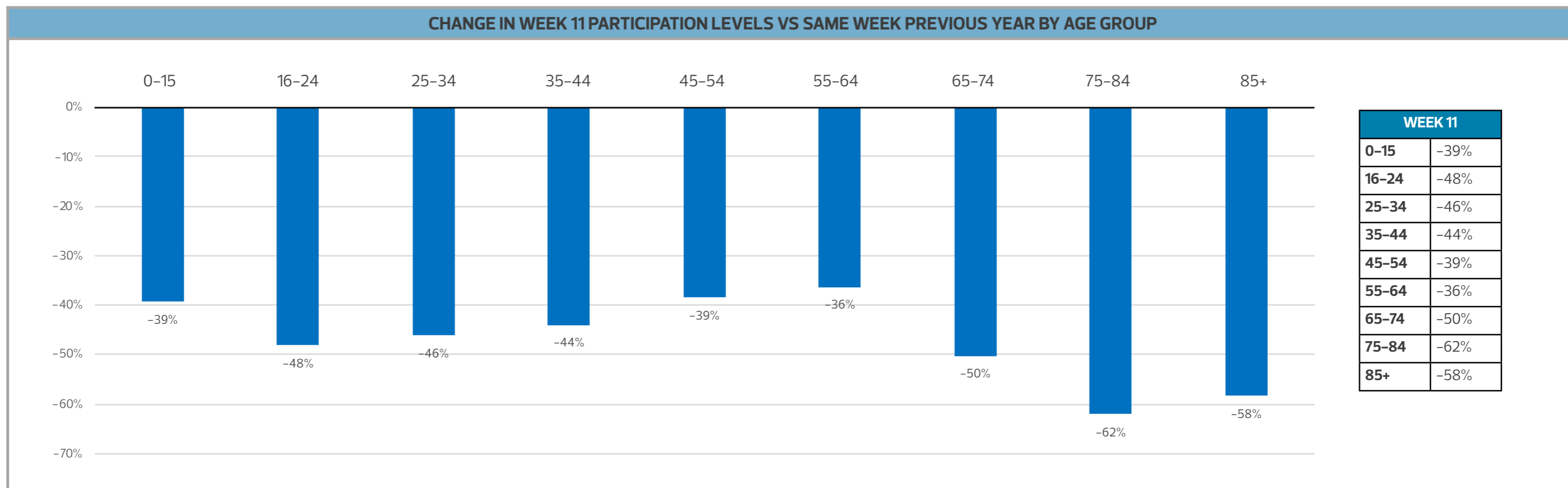
CHANGE IN PARTICIPATION VS SAME WEEK PREVIOUS YEAR											
Gender	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11
Female	6%	7%	7%	10%	6%	3%	6%	3%	-1%	-7%	-42%
Male	0%	2%	1%	6%	1%	2%	6%	2%	-4%	-10%	-43%

CHANGE IN PARTICIPATION VS PREVIOUS WEEK											
Gender	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11
Female	-	9%	-1%	1%	0%	-4%	8%	-4%	-2%	-11%	-37%
Male	-	8%	0%	3%	-3%	-2%	15%	-7%	-6%	-10%	-36%

Looking at differences across genders, participation in the early weeks of the year showed that visits for males and females were ahead of 2019, particularly so for females, with a 10.2% increase on last year in week 4. From week 9 onwards attendances fell compared to last year, with the drop off being slightly less for females. In terms of week on week change in participation, this dropped from week 5 for both males and females, although there was a temporary jump in week 7. From week 8 the weekly drop off was more noticeable for males at first, although for weeks 10 and 11 this was greater for females.

- >> Weekly participation in 2020 was up on 2019 until week 9, when a sharp decline began.
- >> Week on week participation throughout 2020 began declining in week 8 before falling off sharply in weeks 10 and 11.
- >> There was only small differences in the trends for males and females.

AGE DIFFERENTIALS



WEEK ON WEEK AGE DIFFERENTIALS

- >> Across the age groups there were some differences in participation patterns.
- >> The older age groups did experience an increase in attendance in week 9, but this was countered by the biggest drop off in weeks 10 and 11.
- >> With the exception of the 16-24 age group, there was a sizeable decrease in participation across all age groups from week 9 to week 10.
- >> The only age group that did not see a sharp drop off from week 10 to week 11 was the 0-15 group, where participation was -4% down on the previous week.

Age	Week 9	Week 10	Week 11
0-15	1%	-15%	-4%
16-24	-2%	-8%	-42%
25-34	-3%	-11%	-41%
35-44	-11%	-10%	-40%
45-54	-3%	-9%	-36%
55-64	-4%	-9%	-36%
65-74	-7%	-9%	-48%
75-84	7%	-13%	-60%
85+	8%	-22%	-54%

The graph above shows the age group trends in participation in week 11 when compared to 2019. It was the older age groups that saw the biggest drops in participation against 2019 figures. This reached -62% for the 75-84 age group and -58% for the 85+. This also corresponded with the greatest week on week drop being seen from those age bands, suggesting it is this group that had their behaviour influenced most by the emerging situation. The age groups that saw the smallest drop off were 55-64 (-36%), and 45-54 and 0-15 (both -39%). The youngest age group also had by far the smallest week on week drop off in week 11 with just a -4% reduction on the previous week.

- >> There were some differences in how the age groups responded to the COVID-19 situation.
- >> For the older age groups, the decline in participation was greatest against both 2019 and the previous week.
- >> The smallest week on week decline in week 11 was from the 0-15 age group, who saw a drop off of just -4%.

DEPRIVATION

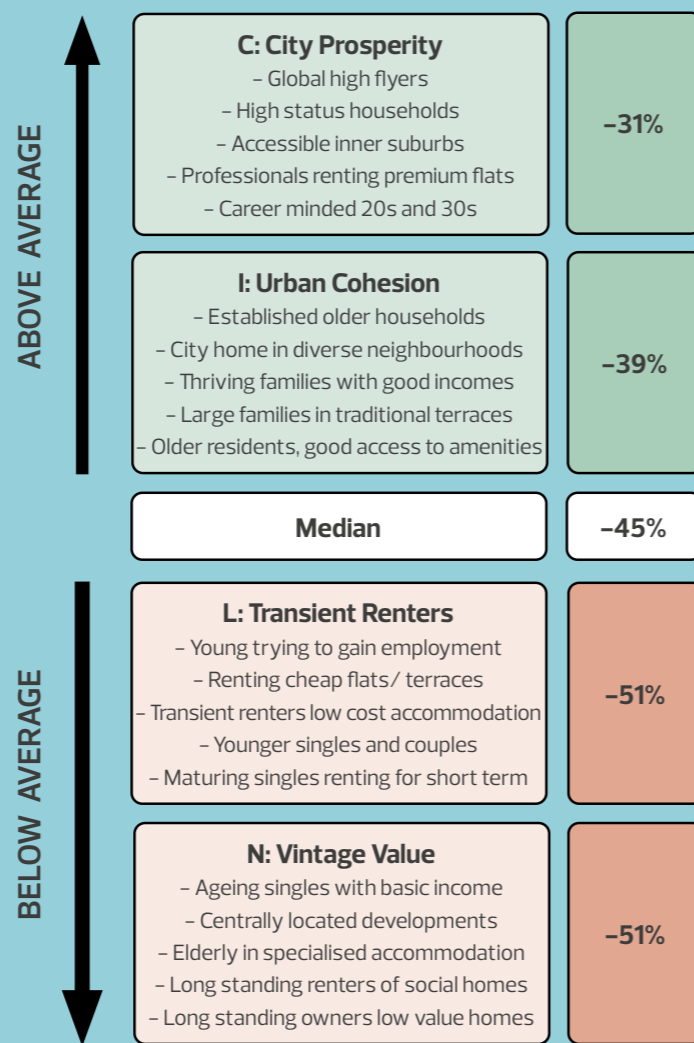
This table shows the change in weeks 8- 11 participation against 2019, for individuals within each decile of a deprivation index, where decile 1 contains the 10% of individuals with the highest levels of deprivation. Looking at weeks 8 and 9 below, the high deprivation (deciles 1-2) areas start to fall at a high rate (-14% and -5% for week 8) where as Lower Deprivation areas stay much more resilient until weeks 10 and 11.

	HIGHEST DEPRIVATION					LOWEST DEPRIVATION				
Decile	1	2	3	4	5	6	7	8	9	10
Week 8	-14%	-5%	1%	-2%	7%	7%	15%	8%	1%	4%
Week 9	-5%	-2%	-8%	-4%	3%	1%	-3%	1%	-2%	-3%
Week 10	-10%	-10%	-10%	-10%	-3%	-5%	-11%	-6%	-10%	-12%
Week 11	-42%	-41%	-42%	-45%	-37%	-39%	-44%	-43%	-45%	-46%

MOSAIC PROFILES

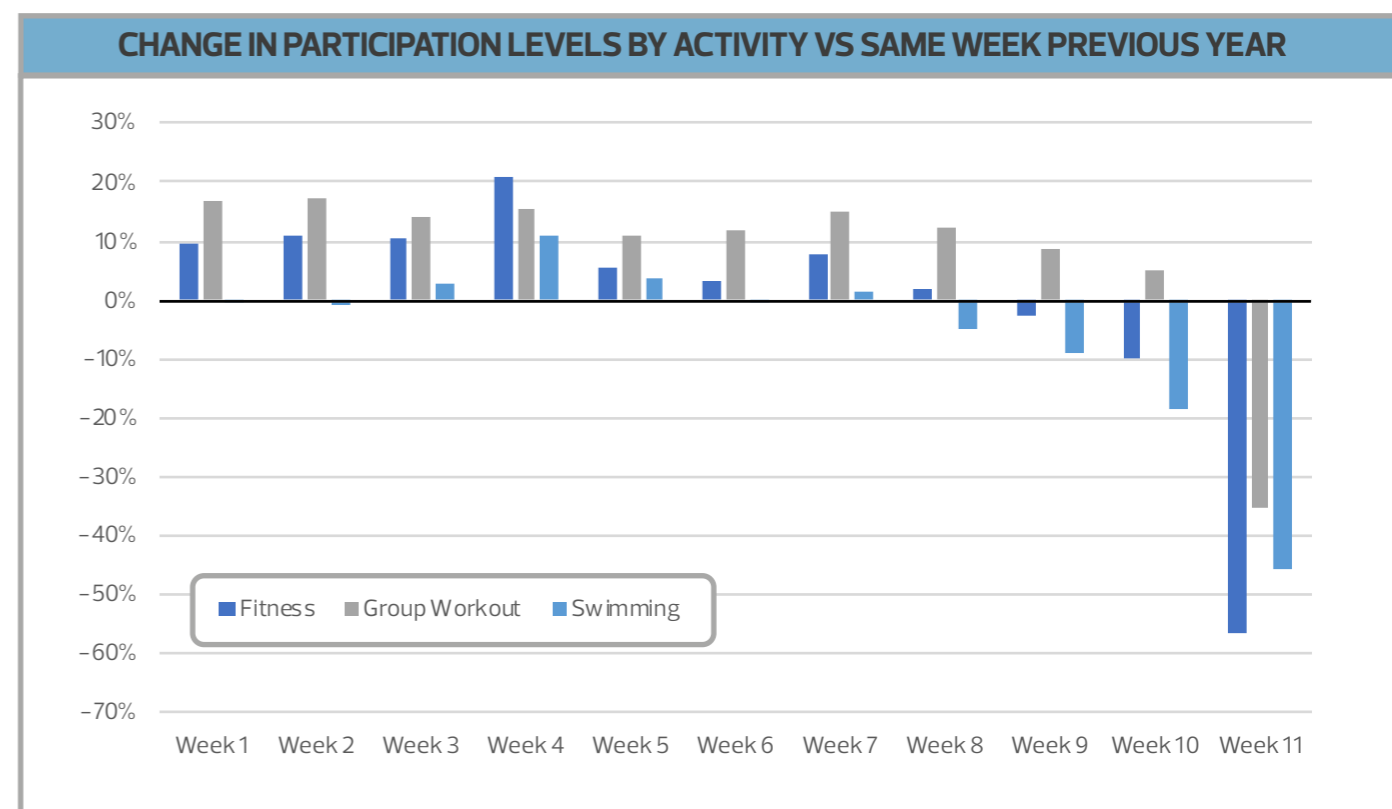
Experian Mosaic profiles divide the population into fifteen groups, based on consumer and societal trends gathered from over 450 data points. All of the individuals within the data set have a Mosaic profile assigned to them based on their behavioural and demographic characteristics. The median change in week 11 participation across all these groups compared to 2019, was -45%. The two groups that fell furthest below the average were 'Transient Renters' and 'Vintage Value'. The two groups that saw the smallest drop off were 'City Prosperity' and 'Urban Cohesion'.

The characteristics of these groups suggest that there were some disparities in reactions to the spread of the virus. City Prosperity and Urban Cohesion are two of the **most affluent** segments, while Transient Renters and Vintage Value are two of the **least affluent**. This suggests that for those from less affluent areas, there were greater barriers in place preventing them from accessing their facilities to exercise.



IMPACT ON ACTIVITY TYPES

Within the facilities included in the data set there are three activities that drive most of the footfall: gym visits, groups workouts and swimming. The graph below shows the relative decline of these against 2019 participation. For all activities, participation was generally ahead of 2019 equivalents until week 8, where swimming fell by 5%. The following week gym visits also began to fall, with only group workouts showing a positive, but declining, increase on the previous year. This pattern continued into week 10, before all three activities saw a huge decrease in week 11, with gym visits now the worst affected with a -56% drop (compared to -35% for group workout and -45% for swimming). This may suggest that people were more willing to attend facilities for the structure of group workouts which make social distancing easier due to capacity and class size restrictions.



>> There were some indications that those in the highest risk groups for inactivity suffered a bigger drop off in participation than those less at risk.

>> The drop of in participation in week 11 was more pronounced for some demographic groups, with some Mosaic groups seeing a larger than average drop off.

>> The decline in swimming participation started earliest of all activities, in week 8.

>> Group workouts saw less of a decline in participation, with an increase in the visits every week until week 11.

## PART TWO: DURING LOCKDOWN

As facilities closed, the public were forced to adapt and make changes to their exercise routines. With time spent outdoors under limitations (at least initially), people had to find new ways to work out at home in order to maintain, or even begin, a new fitness regime. This section looks at what people have been doing in lockdown, taking data from a range of sources to understand how behaviours have changed.

Many gyms have provided online content to support their members during this time, with resources available through websites, apps and over social media. The first video in an ongoing YouTube series by 'The Body Coach' Joe Wicks, providing a daily 30 minute 'P.E. lesson' for schoolchildren, had received over 6.7 million views by the middle of May. His second video, broadcast on Tuesday March 24th, broke the Guinness World Record for highest number of livestreams, with over 950,000 households joining in.

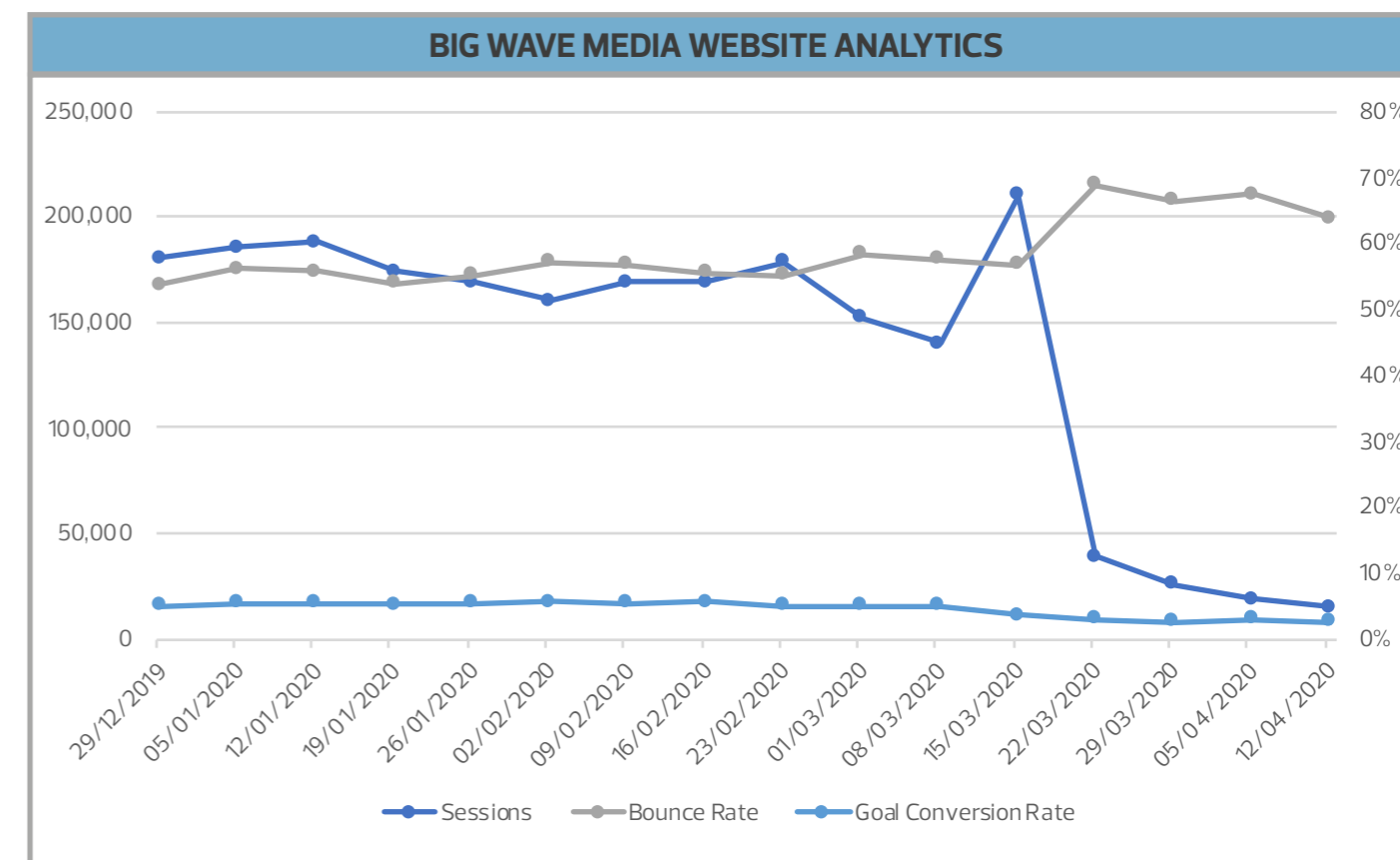
### MoveGB: Move at Home

Since the closure of physical venues, providers have been forced to adapt their products and models, in many cases switching to online provision of activities and classes. MoveGB, a booking intermediary traditionally offering access to a range of classes and activities at various locations, launched Move at Home, an online offering providing both live streamed and on-demand workouts.

- ▶ Customers who are engaged with streaming activities are doing this on average 2.6 times a week.
- ▶ Yoga and fitness classes are proving to be the most popular activities for customers to live stream, in particular dance style workouts.
- ▶ 65% of customers who are streaming classes are doing so from instructors who are locally based.
- ▶ Content on help with live streaming is also provided, and there have been over 90,000 requests for the content on playing music whilst streaming.
- ▶ Some operators reported earning more than under the traditional model as there are no capacity constraints, meaning classes can be delivered to a greater number of people.

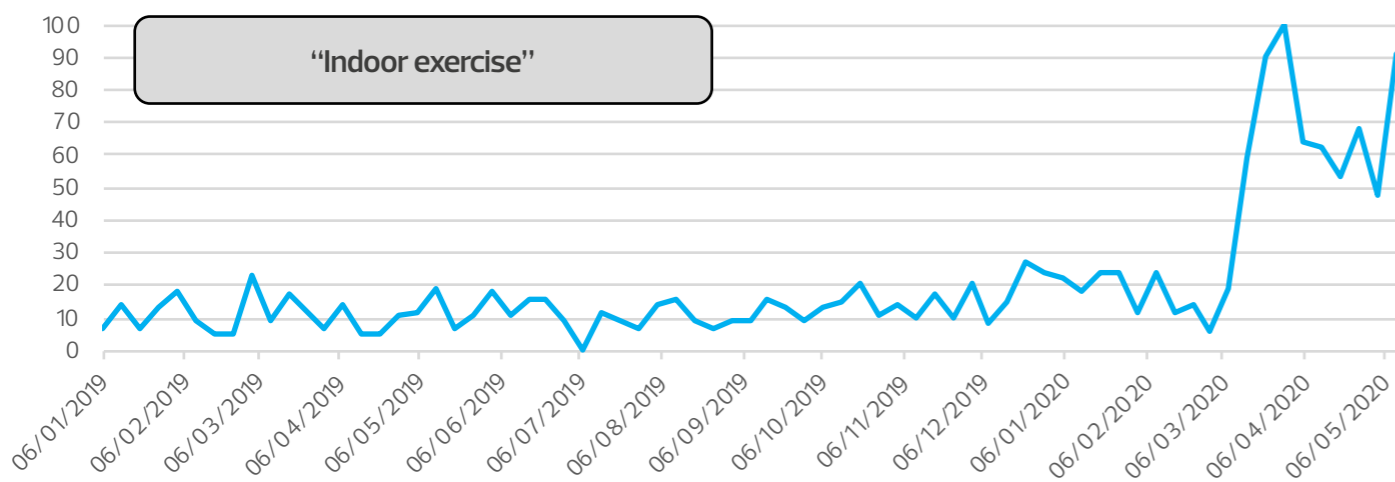
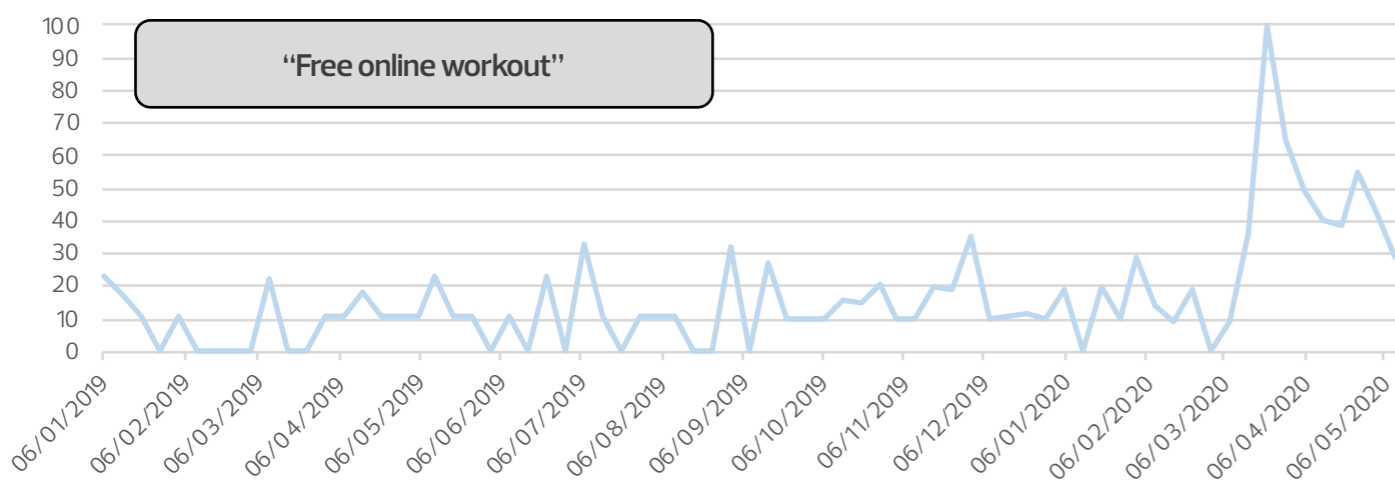
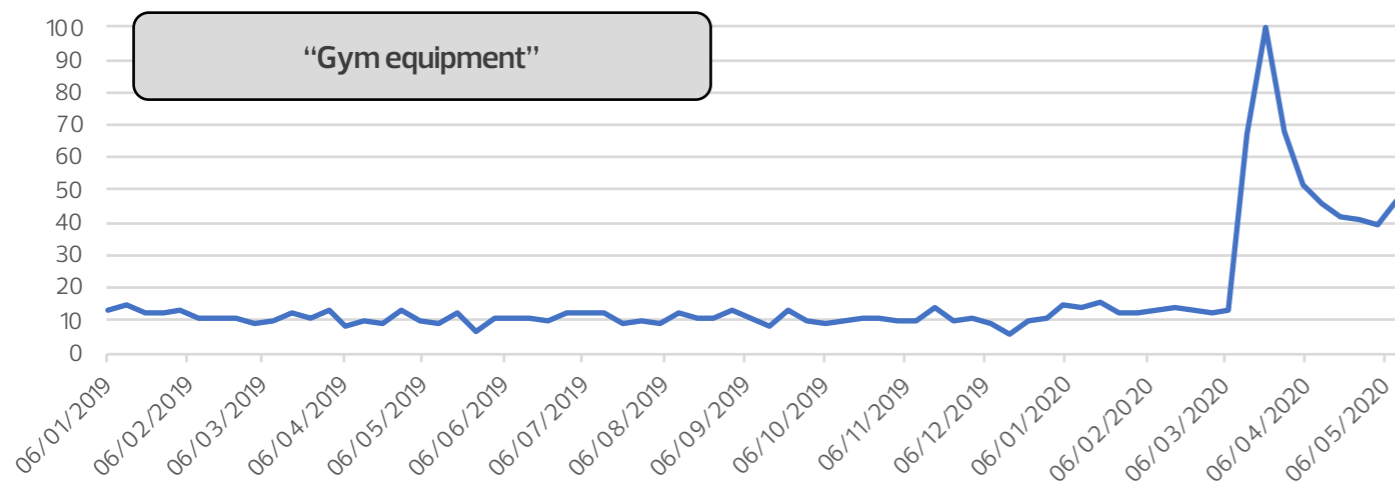
## BIG WAVE MEDIA WEBSITE DATA

The graph below is derived from data supplied by Big Wave Media, who used Google Analytics tools to track engagement with the websites of 27 leisure operators. The data shows a spike in visits to these sites, measured by the number of sessions, in week commencing 15th March, when lockdown was announced. This was followed by a steep and sudden drop off in the following weeks, when the public were unable to access these facilities. The drop in the number of sessions was accompanied by an increase in bounce rate, where a user only visits one page of a website. The bounce rate increased from week 12, perhaps driven by people only visiting homepages to see a latest status or headline update. The final metric 'goal conversion rate', which measures the percentages of visits that included a 'goal' e.g. completion of an enquiry form or download of a brochure, dropped over this time.

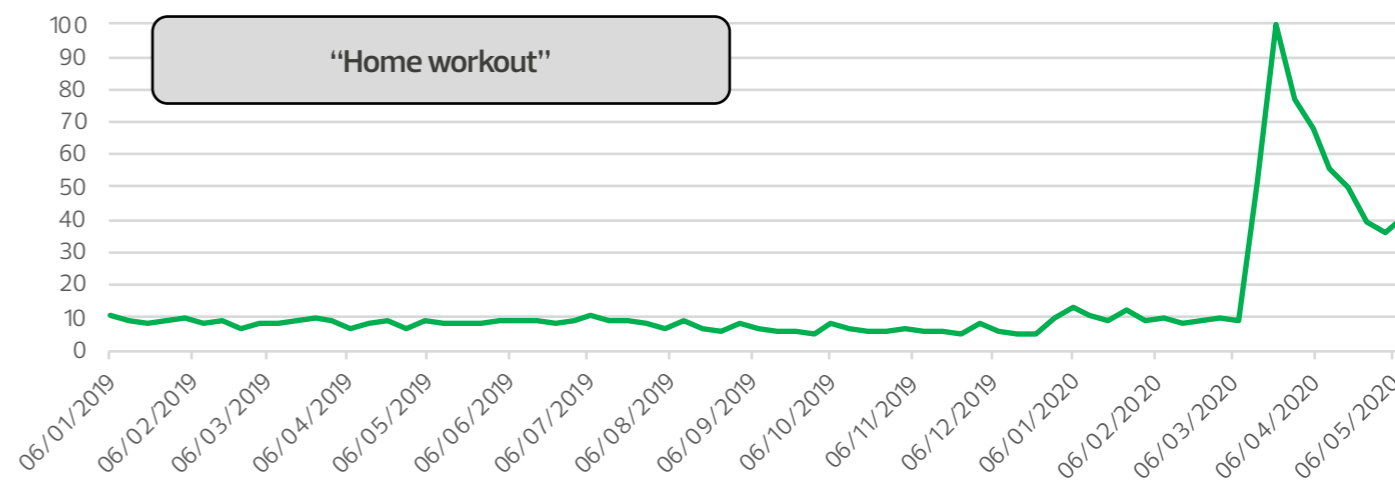
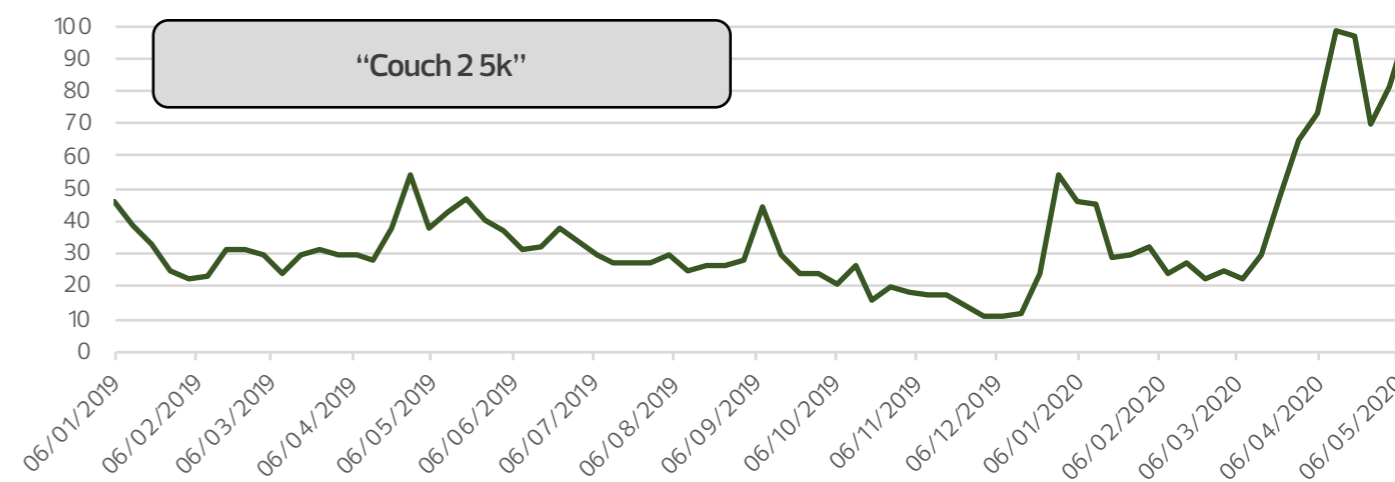
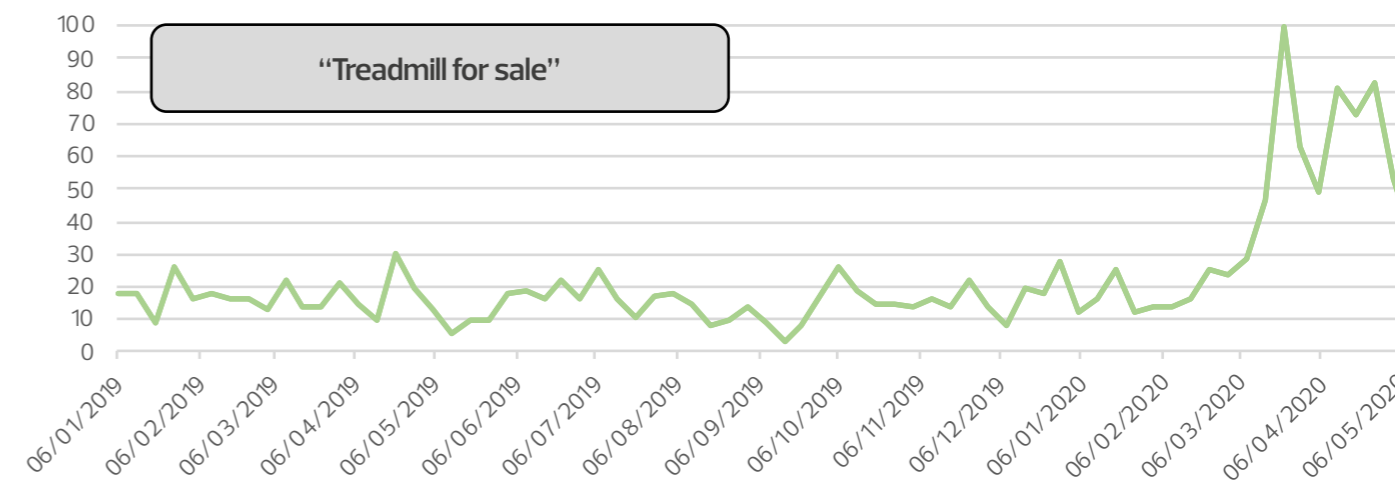


## GOOGLE TRENDS

The graphs below show the Google search frequency of a variety of home exercise related search terms. These are UK specific searches across January 2019– May 2020, and all the terms show a big increase in the relative frequency of search in March 2020. This corresponds with the time that people had to switch from exercising at a physical facility, to exercising at home, or outdoors.



Google Trends shows the frequency that a given term is searched in Google relative to the total search volume over a period of time. A value of 100 represents peak popularity of the term, whilst a value of 50 means that the term is half as popular at that time.

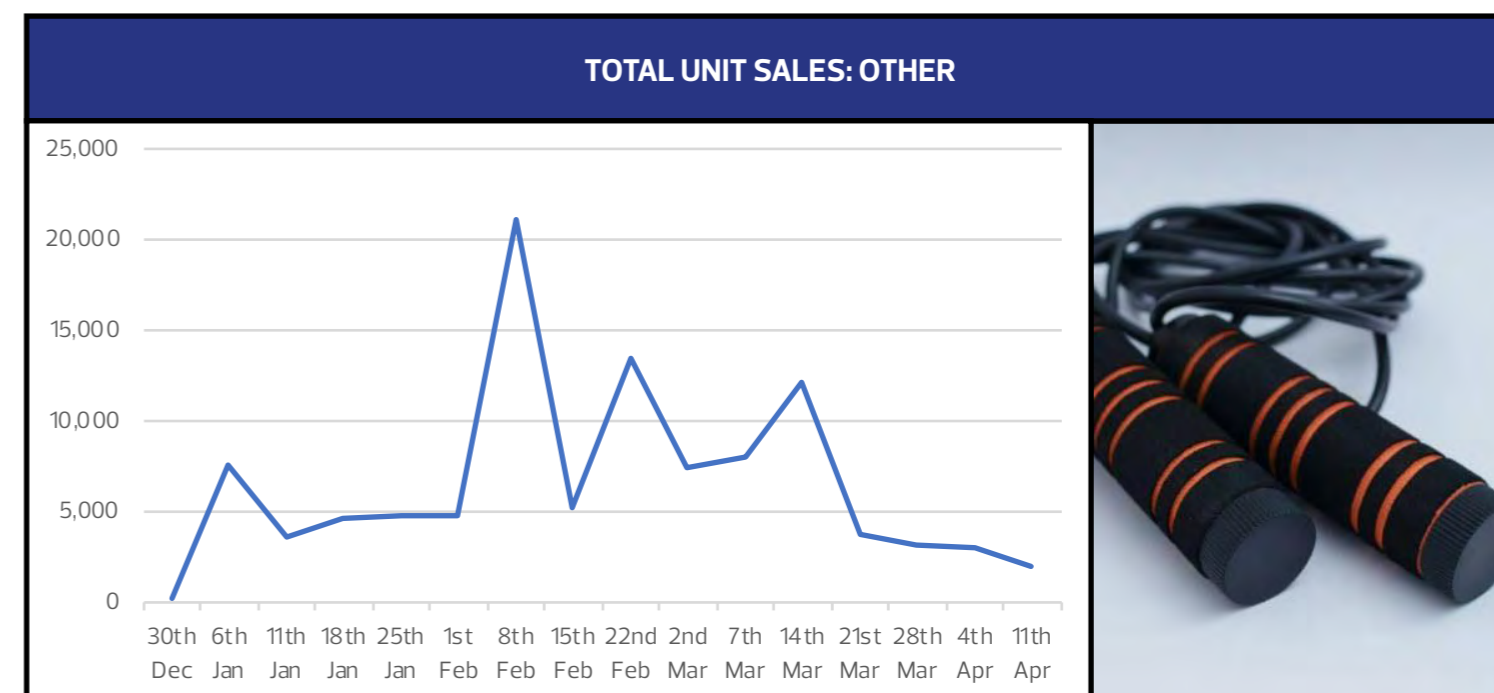
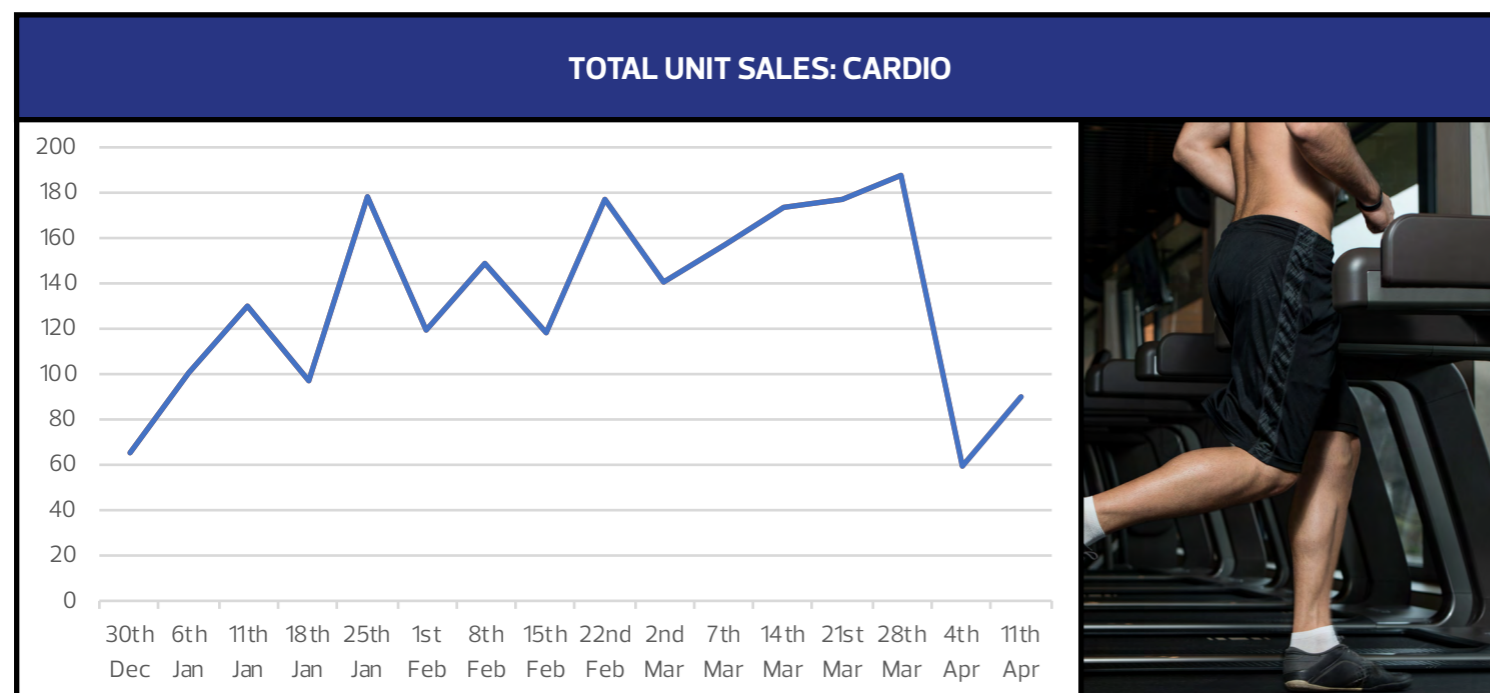
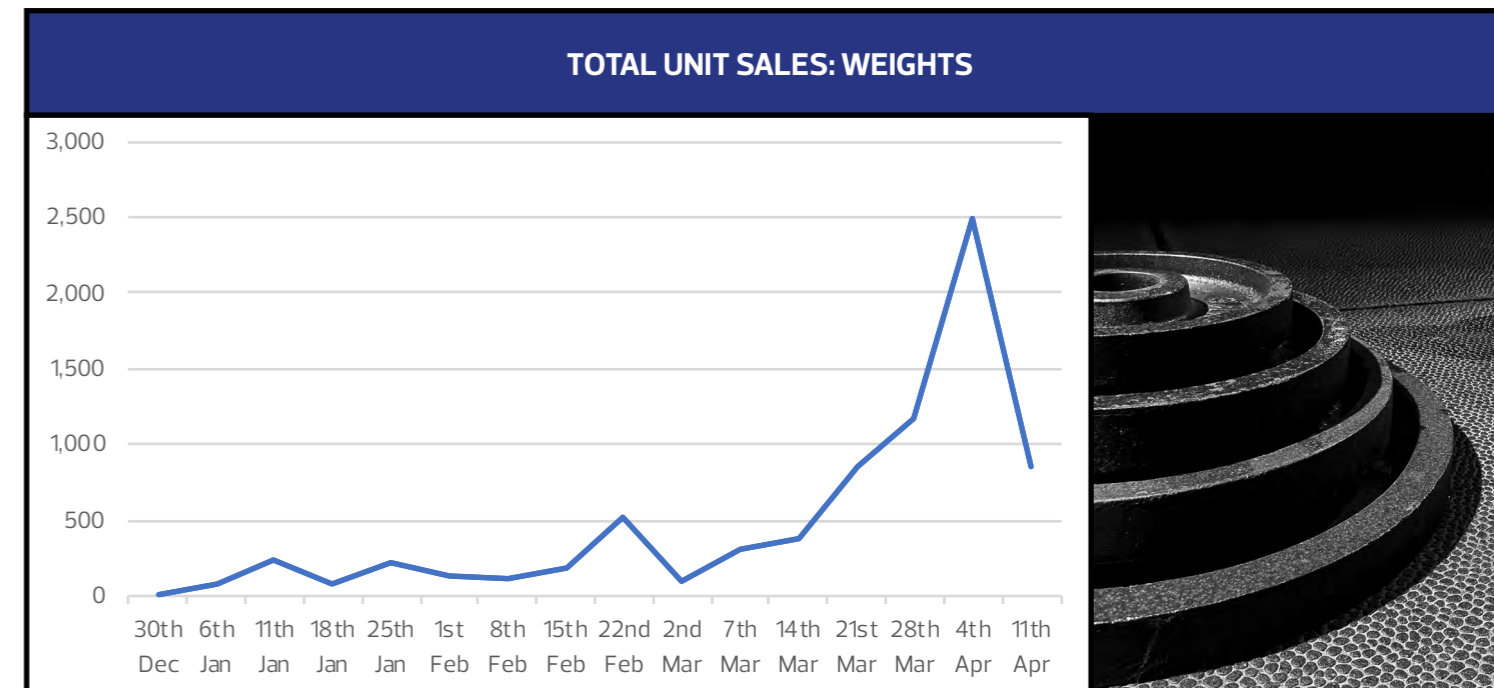




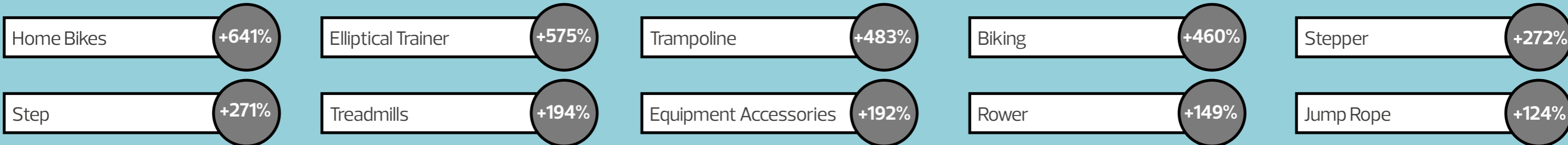
## SALES OF HOME GYM AND FITNESS EQUIPMENT

The data presented here has been aggregated from a selection of ukactive members who shared their sales data from 2020, split by equipment type. For cardio equipment, sales in 2020 reached their highest level in late March (this would be week 13 based on the timeframes from part one). For weights equipment, the peak was one week later in early April. This type of equipment showed a much steeper rise from week 11 onwards, with unit sales in week 13 over four times the weekly average across the whole time period. This more pronounced increase in weights sales rather than cardio could be due to the relative ease of storage and use of this type of equipment compared to large or bulky cardio equipment. Weights equipment will also typically be cheaper than a piece of cardio equipment.

Sales data from Decathlon shows a huge increase in year on year sales across March and April, in all category types, demonstrating the shift from facility based exercise to home based exercise that has taken place. This has been in spite of physical stores closing and retail switching to online only.



### DECATHLON SALES TRENDS: March and April 2020 vs March and April 2019



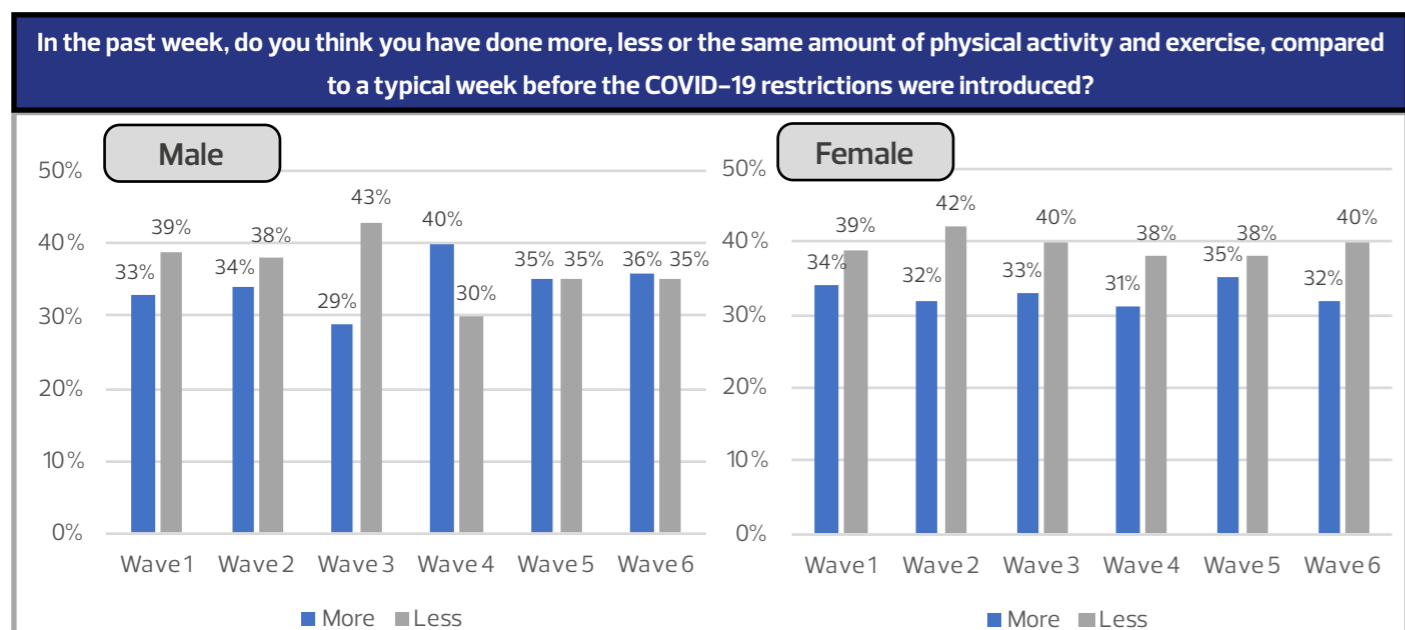
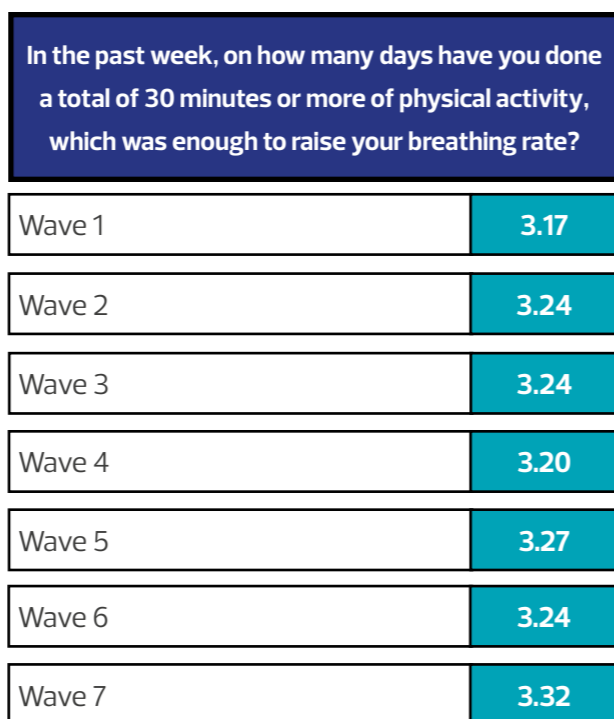
**SPORT ENGLAND & SAVANTA COMRES POLLING** 

Since early April, Sport England have been running weekly tracker polls through Savanta ComRes to monitor the exercise behaviours and attitudes of the public during lockdown. These polls reach a nationally representative sample of 2,000 adults, and have taken place weekly since April 3rd. Wave 7 was the first to be carried out after the initial easing of restrictions. This section of the report looks at the results from the first seven waves, to see how activity levels are differing between demographic groups, and examine if public opinions and attitudes have changed during the course of lockdown. Full data tables are available on the Savanta ComRes [website](#), with additional analysis on the Sport England [website](#).

**OVERALL ACTIVITY LEVELS**

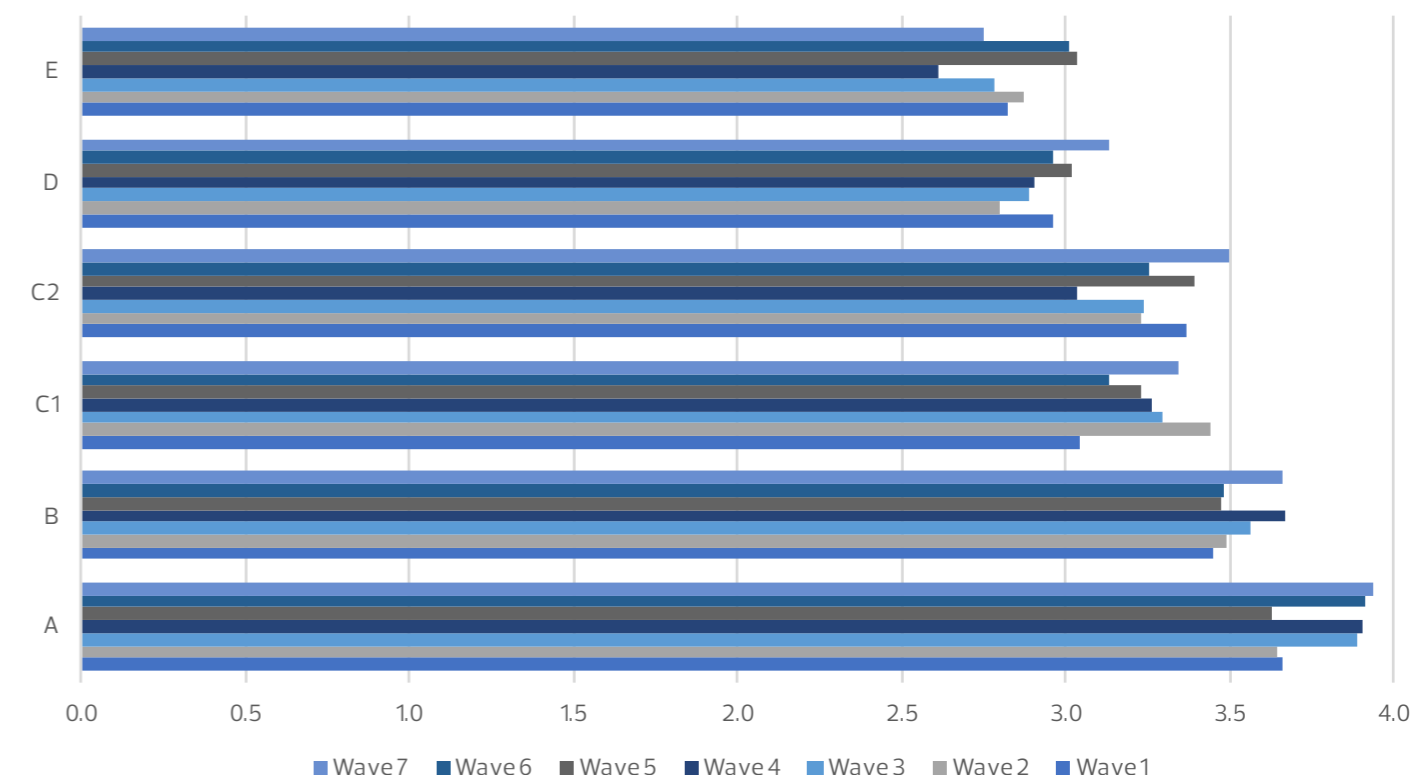
The survey explores how active the public have been during lockdown, by asking on how many days they have done 30 minutes or more of physical activity. The average results from this show activity levels have been fairly stable across the first seven waves of surveying, with an average of 3.17 days in wave 1, increasing slightly to 3.32 in wave 7.

In terms of how this differs from their normal activity levels, for females a higher percentage of respondents reported that this was less than normal, than those who said more than normal for each of the waves. For males this was generally also the case but in waves 4 and 6 a higher percentage of people reported more activity than usual, compared to less.



**DIFFERENCES BETWEEN DEMOGRAPHICS: SOCIAL GROUP**

When looking at responses to the activity levels question by social groups, some patterns have started to emerge across the first seven waves. Generally, the average of active days decreases from groups A (higher/ intermediate managerial, administrative and professional) to group E (state pensioners, casual and lowest grade workers, unemployed with state benefits only). This difference was greatest in wave 4, with a difference of 1.3 days active.



**DIFFERENCES BETWEEN DEMOGRAPHICS: AGE**

Activity levels across the three age groups have shown a consistent pattern in all seven waves, with younger age groups having a higher average of days active than the oldest group (55+). At wave 4 the difference between the youngest and oldest groups was 0.5 days.

	W1	W2	W3	W4	W5	W6	W7
16-34	3.4	3.4	3.5	3.4	3.3	3.4	3.5
35-54	3.3	3.2	3.1	3.3	3.4	3.3	3.4
55+	2.9	3.1	3.2	2.9	3.2	3.1	3.1

**URBAN VS RURAL**

Those from rural areas are doing more activity on average than those living in urban areas. This is the case across all waves of surveying.

	W1	W2	W3	W4	W5	W6	W7
Urban (Building icon)	3.1	3.2	3.1	3.1	3.2	3.2	3.3
Rural (Tree icon)	3.5	3.3	3.6	3.5	3.4	3.4	3.5

ACTIVITY TYPES

The survey explores the different types of exercise people are taking part in. Across all seven waves, **walking** is the most popular activity, with almost two thirds of respondents taking part in this in each wave. The percentage of people who are walking is also increasing as the waves progress. **Home workouts**, both online and offline, are also proving popular with around one fifth of respondents taking part in these. There has been consistent increases in the percentage of respondents who are **cycling**, with this having doubled from 8% of respondents to 16% across the seven waves. In terms of which online resources are being used, additional detail from wave 3 showed **YouTube** to be by far the most frequently accessed resource, with 73% of all online users having accessed this, followed by 19% for Facebook and Instagram.

Which, if any, of the following physical activities have you done in the past week?							
	Wave 1	Wave 2	Wave 3	Wave 4	Wave 5	Wave 6	Wave 7
Walking	59%	59%	60%	61%	61%	63%	65%
Home Workout: Offline	24%	22%	22%	19%	22%	19%	21%
Home Workout: Online	23%	21%	19%	20%	22%	21%	21%
Running/ Jogging	18%	16%	19%	20%	19%	19%	20%
Informal exercise	14%	15%	16%	15%	16%	15%	14%
Cycling	8%	10%	12%	11%	13%	13%	16%
Other	5%	8%	6%	5%	6%	5%	6%

On which, if any, digital platforms or websites have you found these home workouts?	
YouTube	73%
Facebook	19%
Instagram	19%
Gym website	9%
ukactive website	8%
Twitter	6%
Sport England website	4%

REGIONAL DIFFERENCES

The tables below show the regional participation in three of the most popular activity types across the waves. There are a number of regional differences in how people are choosing to exercise during this time. Some of the most noticeable include the relative lack of people choosing to walk in London, with the lowest percentage in each wave. This is countered by the high percentages in East England in early waves, with this region having the biggest percentage of walkers in wave 1-3, reaching 71% in wave 3. Despite this, there is an appetite for running/ jogging in London, with this region having the highest percentage of participation across all waves. London also had the highest percentage of respondents taking part in online home workouts in waves 2-7, reaching a high of 32% in wave 2. Whilst these figures provide some interesting trends, they should be interpreted with caution as the sample size decreases when respondents are split between their relative regions.

	WALKING						
	W1	W2	W3	W4	W5	W6	W7
North East	62%	61%	61%	57%	64%	64%	66%
North West	62%	62%	58%	62%	59%	65%	68%
Yorkshire & the Humber	60%	58%	63%	64%	61%	61%	71%
West Midlands	59%	52%	53%	62%	63%	65%	65%
East Midlands	58%	63%	56%	61%	62%	70%	68%
East of England	69%	65%	71%	59%	62%	62%	61%
London	46%	51%	51%	52%	54%	55%	58%
South East	59%	59%	66%	66%	61%	68%	68%
South West	66%	64%	60%	65%	64%	62%	68%

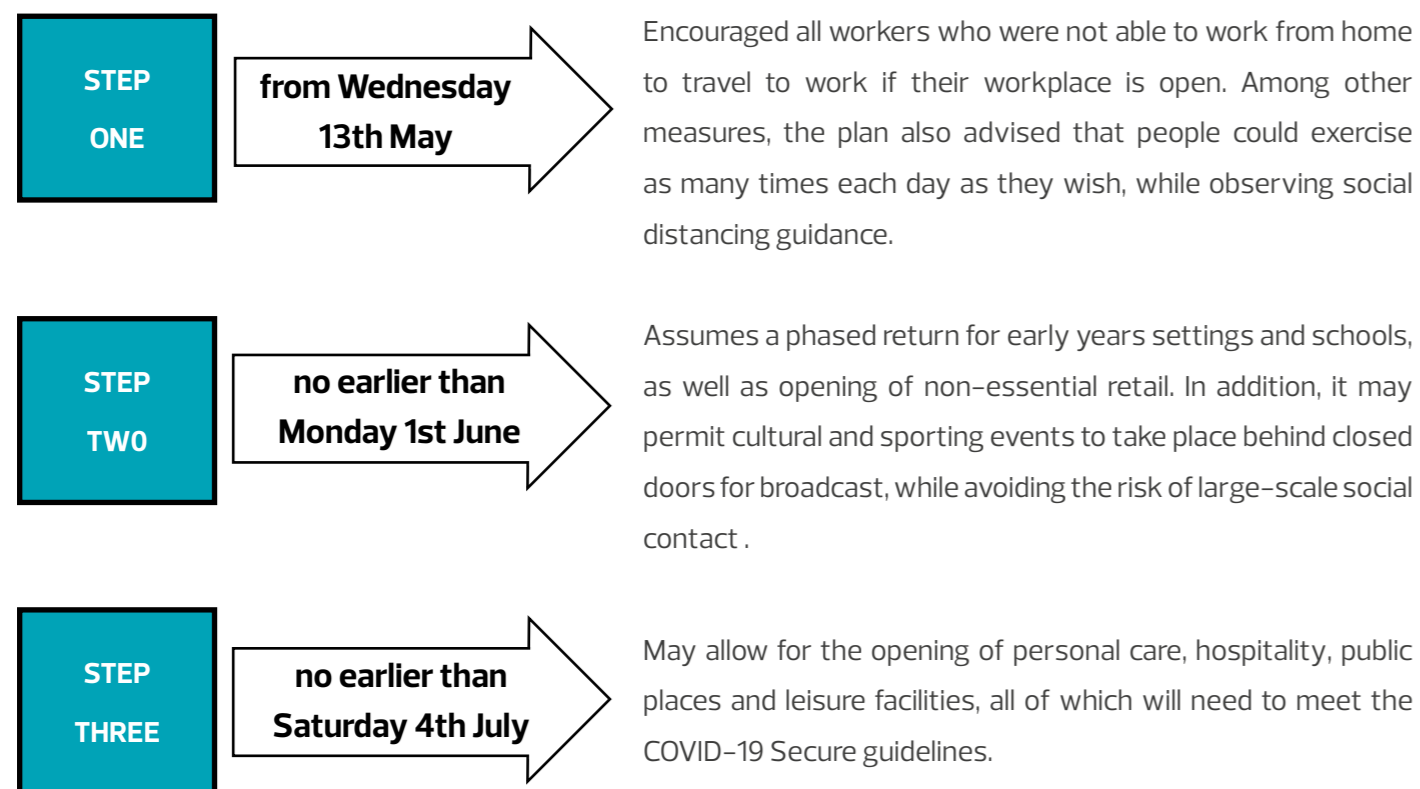
	HOME (ONLINE)						
	W1	W2	W3	W4	W5	W6	W7
North East	35%	19%	18%	14%	29%	14%	17%
North West	27%	19%	17%	18%	18%	23%	17%
Yorkshire & the Humber	16%	15%	15%	14%	16%	19%	21%
West Midlands	21%	21%	19%	16%	19%	22%	23%
East Midlands	13%	18%	19%	22%	22%	21%	18%
East of England	22%	16%	17%	18%	20%	15%	18%
London	30%	32%	26%	27%	31%	29%	29%
South East	22%	20%	17%	24%	24%	20%	23%
South West	20%	20%	18%	16%	19%	16%	19%

	RUNNING						
	W1	W2	W3	W4	W5	W6	W7
North East	23%	14%	10%	23%	18%	14%	16%
North West	16%	15%	15%	20%	15%	17%	19%
Yorkshire & the Humber	19%	11%	14%	17%	14%	13%	16%
West Midlands	16%	14%	22%	15%	18%	23%	20%
East Midlands	14%	16%	19%	18%	16%	17%	13%
East of England	17%	9%	14%	15%	14%	15%	16%
London	23%	28%	31%	30%	31%	26%	30%
South East	15%	14%	15%	19%	18%	17%	21%
South West	16%	13%	20%	17%	19%	19%	22%

## PART THREE: POST LOCKDOWN REOPENING THE SECTOR



On 12th May 2020, the UK Government issued its COVID-19 recovery strategy, which set out a plan to rebuild the UK for a world with COVID-19. As part of this plan, three steps were identified to demonstrate how social distancing measures are likely to be amended in the short term.



It is noted that, at the time of writing, step three does not clarify whether 'leisure facilities' includes sport and physical activity facilities such as gyms, leisure centres, swimming pools and other relevant indoor sports facilities. However, ukactive is committed to engaging with Sport England, DCMS and the UK Government to demonstrate that our sector is able to operate safely and effectively, and that it is vital to the long-term health and wellbeing of the country.

### ASSUMPTIONS FOR MODELLING

For modelling purposes this paper will assume the re-opening of indoor sport and physical activity facilities on 4th July and all future projections will be calculated from this point. To address the current uncertainty, ukactive and 4global, supported by DataHub, will continue to update future projections, all of which will be available [here](#). These will be updated on a regular basis and will reflect any changes to the UK Governments strategy, as well as observed changes in customer behaviour, collected through ukactive members from across the country.

## ANALYSIS PROCESS

The analysis process and subsequent modelling outputs included in this paper reflect the position of the sector at a single point in time. There are also a number of specific factors and parameters that ensure the position may be different for operators at a local level to the national picture.

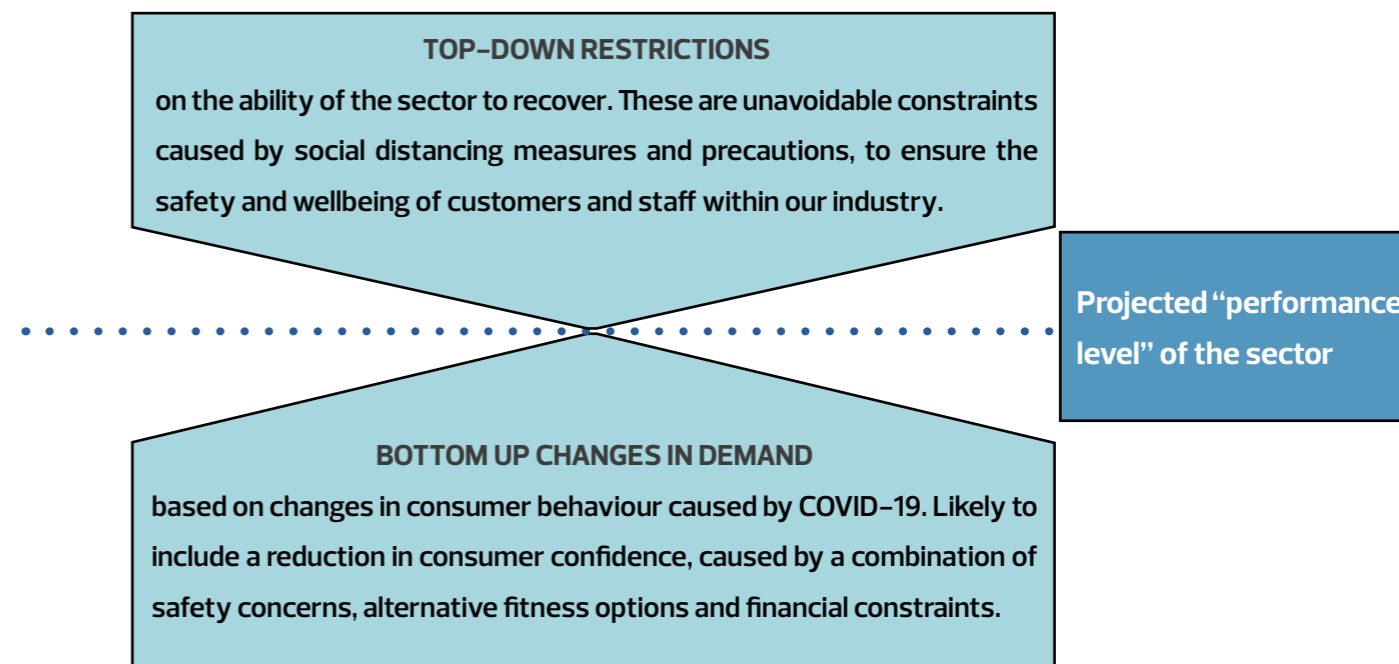
These include but are not limited to:

- >> Operational model of specific facilities and organisations
- >> Demographic and mosaic profile of the customer base
- >> Local competition within the catchment, including a change in the local market driven by COVID-19.

There will also be external influences and factors that change over time, which will have an impact on the outcome of ongoing modelling and projections. These include but are not limited to:

- >> Changes in facility restrictions imposed by the UK Government or Local Government
- >> The potential of a 'second peak' of COVID-19
- >> The changing nature of customer confidence, linked to both external events and the changing nature of the pandemic

COVID-19 is undoubtedly going to have an unparalleled impact on society as a whole, with many sectors and industries facing a future that is markedly different to life prior to the pandemic. In order to understand the impact on the sport and physical activity sector, we have considered the new external influences in two key areas; 'top-down' restrictions on the ability of the sector to recover and 'bottom-up' changes in consumer demand.



## TOP DOWN RESTRICTIONS

Based on consultation with the sector we have identified four key restrictions that, if they are implemented as part of the re-opening strategy, will have a significant impact on the capacity of the sector and the return to sustainability. These restrictions are as follows:

### RESTRICTIONS

- ▶ **Capacity reduction**  
50% reduction in capacity of all facility types, to allow suitable social distancing measures to be implemented. This has been calculated using the maximum current capacity of each facility type at any one time and includes measures such as removing every other piece of cardio equipment from usage.
- ▶ **Swimming restriction**  
No swimming lessons, primarily due to the high concurrent demand on changing facilities.
- ▶ **Activity restriction**  
No team sports, including football, hockey, cricket, rugby, to be played within leisure facilities.
- ▶ **User restriction**  
No access to users aged 70 and over.

## BOTTOM UP CHANGES

As identified in previous sections of this report, COVID-19 has caused a significant shift in people's attitudes towards sport and physical activity. These have been caused not only by a necessity for people to exercise indoors, but also by changes in life circumstances and new external pressures. The value generated by facilities and the 'traditional' sport and physical activity sector has been evidenced time and time again. Research such as [Physical Activity- A Social Solution](#) demonstrates that there will always be a place for facilities and infrastructure.

Furthermore, COVID-19 has undoubtedly sharpened the focus of the public, politicians and industry, in terms of the importance of being fit and healthy. With the Prime Minister vowing to tackle obesity, reportedly catalysed by his own experiences tackling COVID-19 in intensive care, the importance of physical activity is likely to be under the spotlight in the coming weeks and months.

## CONSUMER CONFIDENCE

While the long-term trend may be upwards, the impact of COVID-19 on our sector in the short and medium term is undeniable and, in many cases, unavoidable. Much of this impact is likely to be caused by a reduction in consumer confidence, especially in the levels of comfort that participants will have in visiting an indoor facility. Furthermore, insight from across industries has highlighted changing spending patterns and a reduction in disposable income due to redundancies or through the furlough scheme. A key area in which reducing consumer confidence is likely to impact the performance of the sector is the cancellation of monthly memberships. While the vast majority of operators instigated an immediate freeze on direct debit membership payments, the sector saw cancellation rates of between 15% and 23%. Currently, it is not known whether members will continue to cancel following the removal of restrictions, nor the impact on membership figures from the growth of online content and usage, however the model will be updated based on these parameters, as further data becomes available.

The key inputs used within the sector projections are driven by industry data and the latest available information on consumer confidence. These are summarised below:

**Starting point of the curve at the point of re-opening:** This changes by facility type, with a sector average of 41%. This is based on customer confidence survey data that identifies immediate potential return rate, adapted for specific facility types.

**Growth rate of the curve following re-opening:** This curve is generated using logistic mathematics, which is influenced by the change in consumer confidence that has been quantified during lock-down, alongside projections for how this will accelerate after re-opening. The modelling demonstrates how the resilience curve will be impacted by top-down facility restrictions.

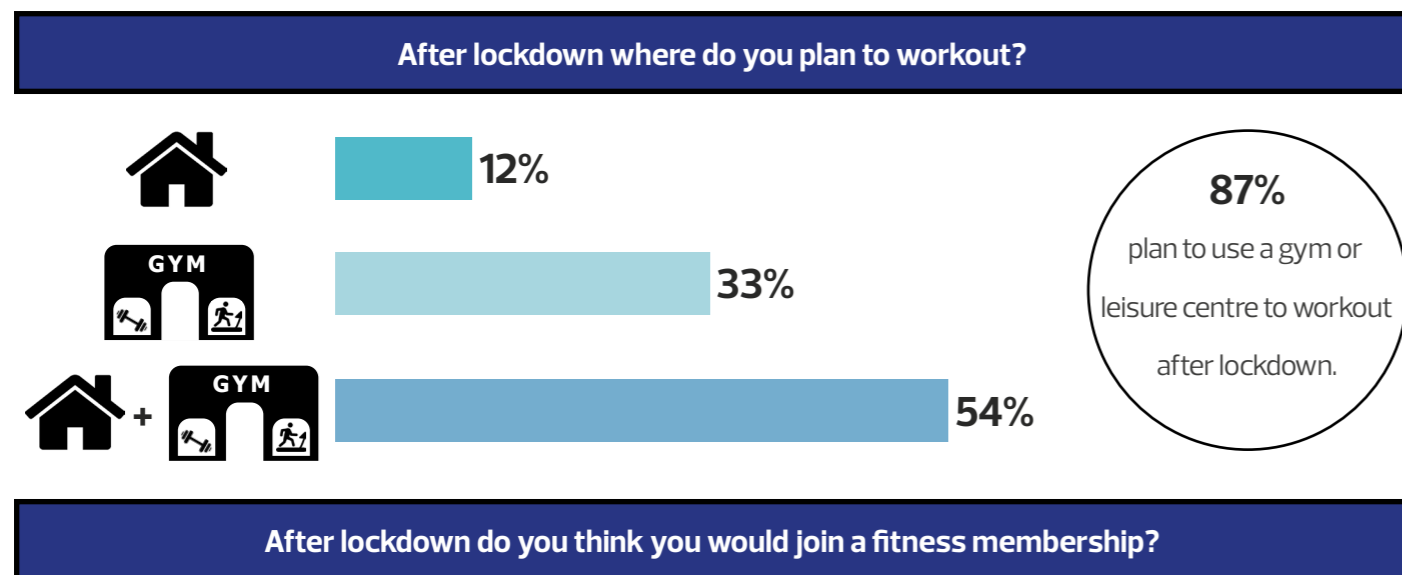
**Saturation point:** This identifies the point that the curve stops growing at a meaningful rate, which takes into consideration member survey data that quantifies the expected number of members that will return to the facility over the analysis period, as well as potential new entrants into the market.

## YOUGOV SURVEY

One of the first published data sets from consumer confidence surveys came from a [YouGov poll](#) which was undertaken on April 20th-21st, about a month after the start of lockdown. The results from these suggested that the confidence level for returning to gym environments was low, with **30%** of those who used gyms (a sample of 866) saying they would be **comfortable** ('very comfortable' or 'fairly comfortable') with visiting once restrictions were lifted. This was on a comparable level to restaurants (37% comfortable), pubs (32% comfortable) and coffee shops (36% comfortable). Although subsequent surveys and data gathering have indicated a higher level of confidence to this, it is important to consider that the reopening of facilities will need to be accompanied by a range of measures to reassure members that health and safety is of top priority.

TA6 ALLIANCE LEISURE SURVEY

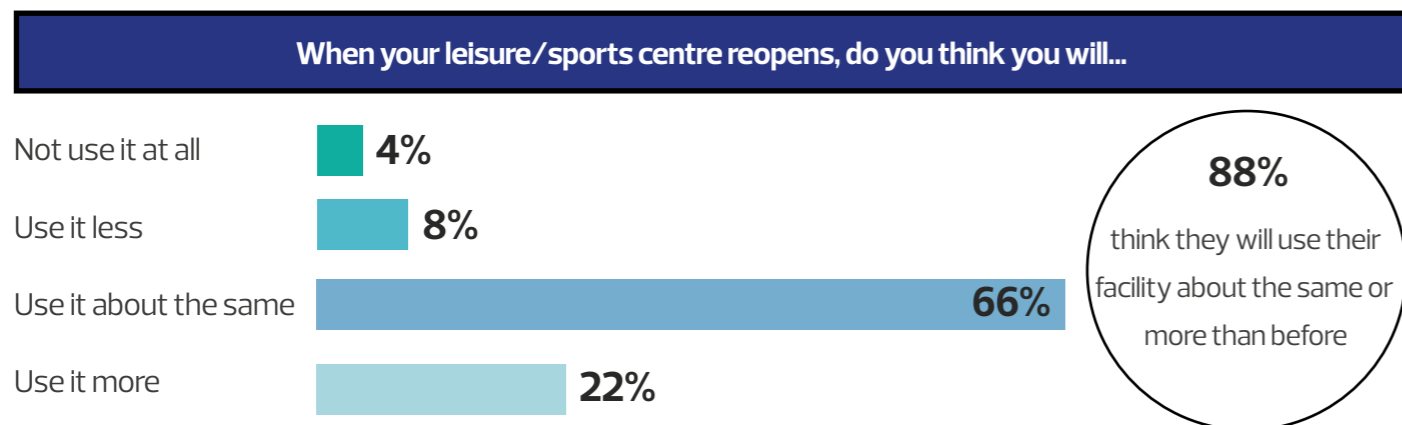
TA6 powered by Alliance Leisure work with leisure operators across the UK to improve the health and wellbeing of their customers, develop sustainable revenue streams and invest in the development of the workforce. Their [National Fitness Survey](#) conducted between 20th – 29th April gathered responses from over **4,000 members of the public** on their exercise habits both during and post lockdown. The key results relating to consumers making a return to facilities when lockdown is lifted are below; encouragingly 87% of respondents plan to use a gym or leisure facility to workout once lockdown has ended, either on it's own or in combination with working out at home.



**35%** of those who were not already members of a facility said they would consider buying a fitness membership.

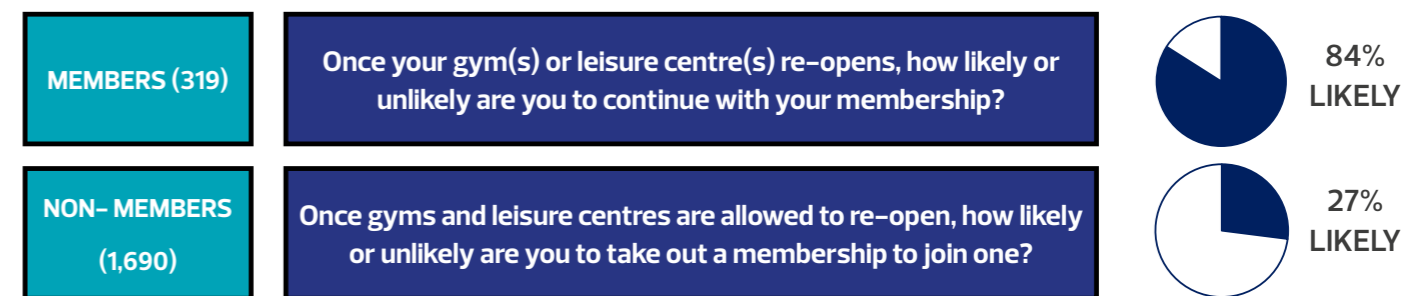
LEISURE-NET SURVEY

Leisure-net, in partnership with 4global and Max Associates, created a customer attitude survey via the DataHub to understand how members were exercising whilst their facilities were closed, and how they intended to exercise once lockdown had been lifted. The survey was live during May and received over **60,000 responses across 43 different operators**.



SPORT ENGLAND & SAVANTA COMRES DATA

In the fifth wave of Savanta ComRes surveying, a question on intention to return to facilities where individuals currently, or previously, held a membership was included. The results from these showed a high percentage of those who had a current membership intended to resume this when the opportunity arose, with a sizeable portion of those who had not held a membership this year likely to take one up. There has been a drop in the percentage of respondents who answered 'strongly agree' or 'tend to agree' to the statement 'I worry about leaving my home to exercise or to be active', with this figure falling during each wave of questioning. This could suggest that the public are beginning to regain confidence in leaving the relative safety of their home environment to exercise further afield.

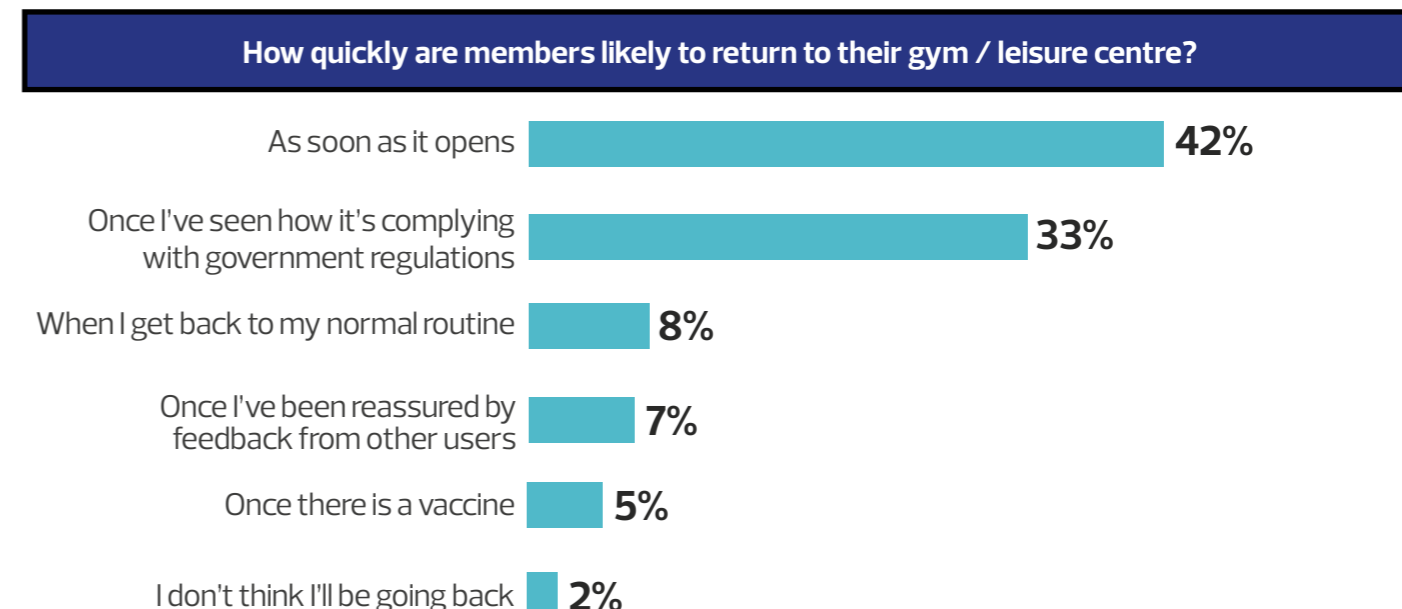


**"I worry about leaving my home to exercise or to be active"**

**Strongly Agree or Tend to Agree:** 60% → 60% → 56% → 50% → 49% → 47% → 43%

MYCUSTOMERLENS SURVEY

MyCustomerLens created a survey to understand opinions on returning to the gym or leisure centre environment. This included an indication of when people would return. The survey received over **4,700 responses**.

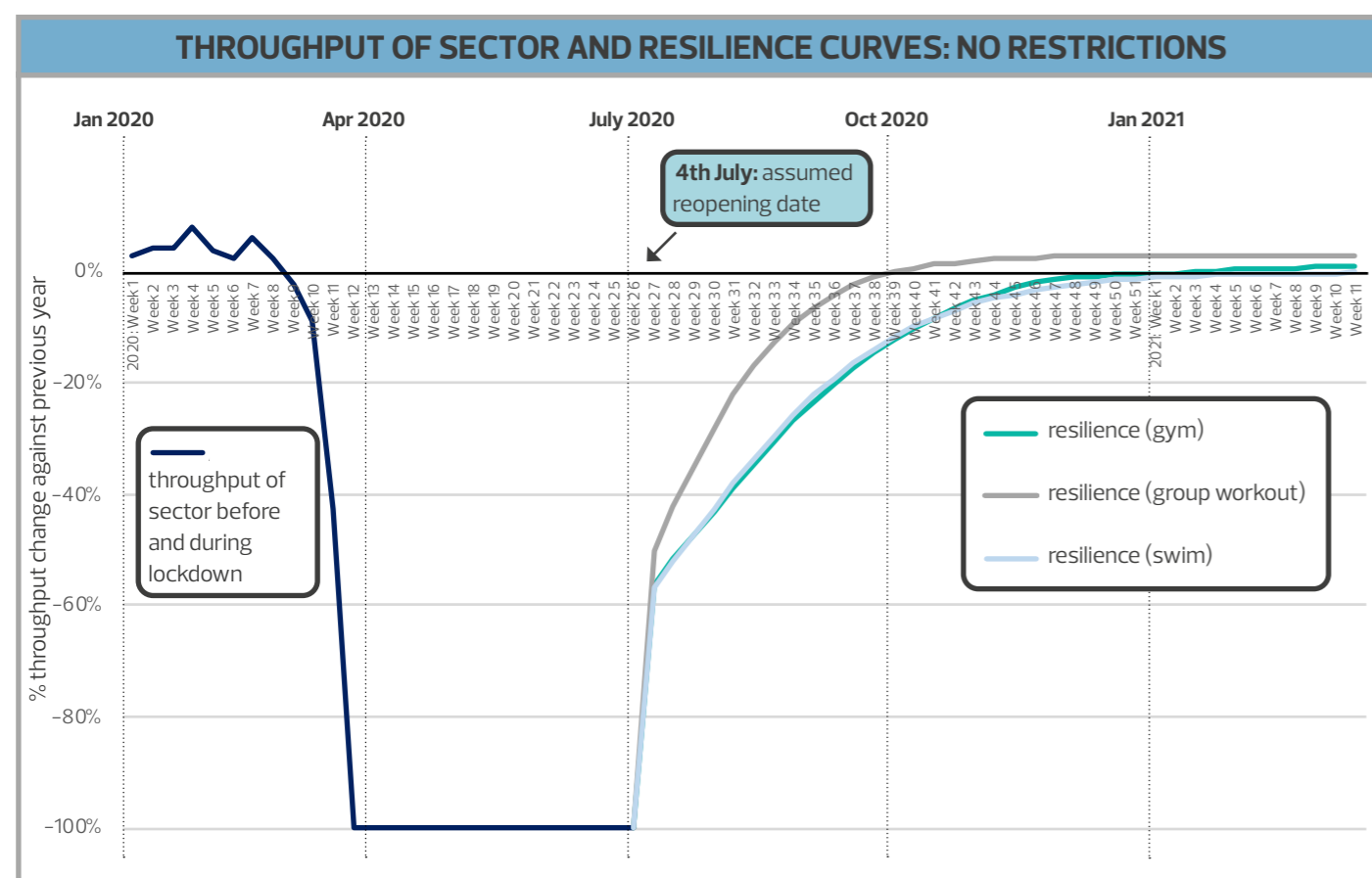


## SECTOR RECOVERY PROJECTIONS

The graphs that follow show potential recovery routes for facilities based on sector averages. Individual facility types differ, and these scenarios assume that operators do not take any additional action, either to build consumer confidence or to repurpose facilities to better fit the restrictions that are in place.

### GROWTH CURVES: WITHOUT TOP DOWN RESTRICTIONS

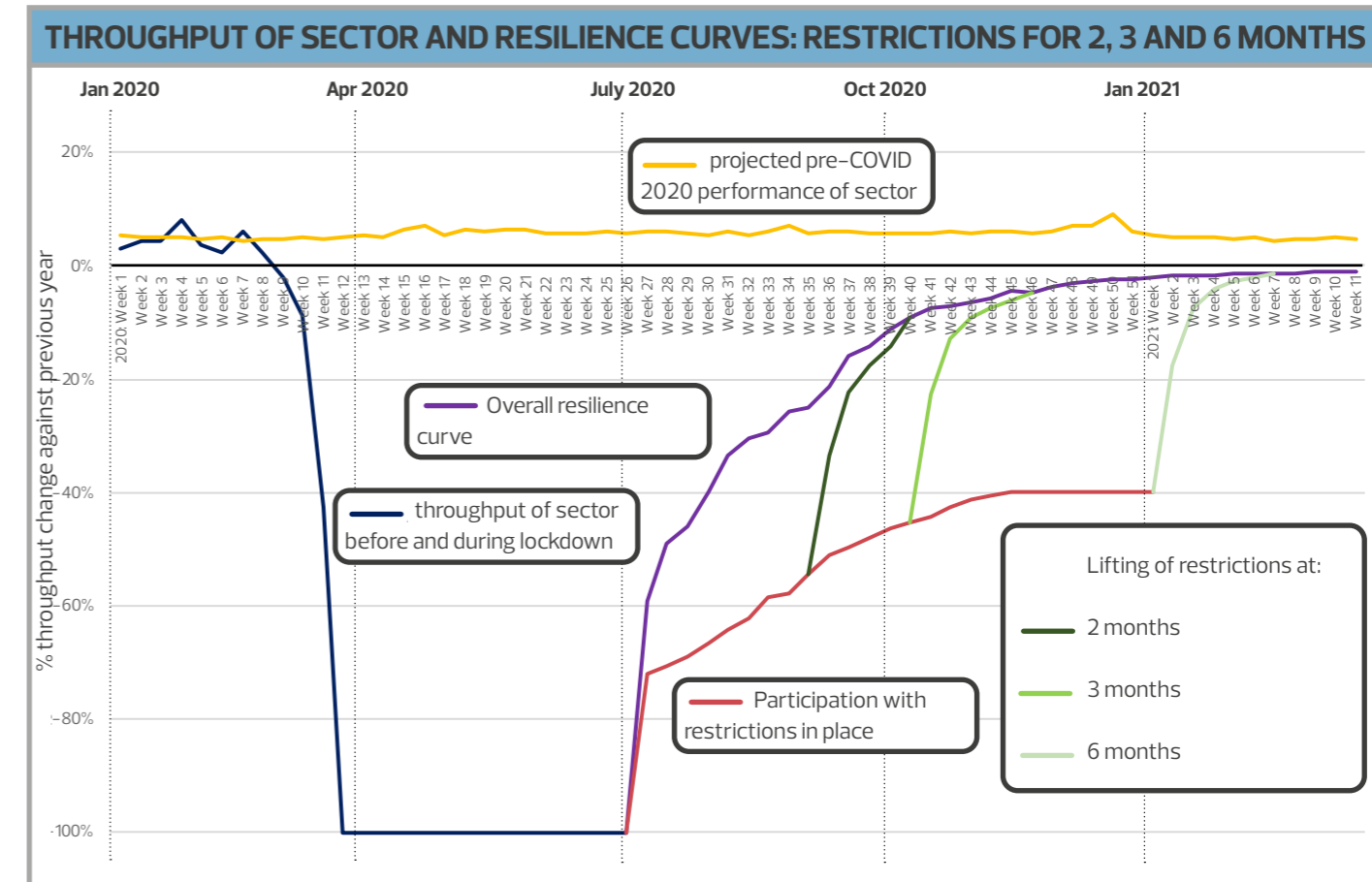
The growth curves used are formed using logistic mathematics, tailored using a range of data sources to predict the recovery of the sport and leisure market. The initial phase shows an exponential recovery from the lockdown period which then slows to incremental growth as time progresses. The data sets identified in the previous section combine to inform the speed of recovery, growth rate and the point at which the market growth matures and slows. We have utilised data on customer confidence, combined with data from industry-specific research projects to develop a 'resilience' curve that models the recovery of the sector, before any restrictions are considered. The graph below maps the throughput of the sector before and during lockdown (dark blue). Following the assumed opening date of July 4th, the green, grey and light blue curves show the resilience of gym, group workout and swimming respectively. The curve shows that following an initial sharp increase, the recovery of the three key facility types continue to increase at differing rates, with group workout increasing at a higher rate than the other facility types. The Y axis shows the percentage change throughput of the sector, against the same point in the previous year.



### GROWTH CURVES: CONSIDERING THE IMPACT OF RESTRICTIONS ON SECTOR RECOVERY

While the resilience modelling projects that the sector will have a steep initial recovery, followed by a slower growth curve, we have also applied the top-down restrictions to the growth model to identify what impact this is likely to have. Depending on when the restrictions are lifted (2, 3 or 6 months), the sector is expected to have a slowed rate of growth while the restrictions are in place. This is due to a combination of capacity restrictions and the deduction of large groups of participants from expected visitor members. At each of the three scenarios (2, 3 or 6 months), demand is projected to climb up sharply, however this increase will be greater as time goes on and consumer confidence continues to grow across society.

- >> On average, visits to leisure facilities were expected to grow by 5.7% in 2020, compared with 2019.
- >> The purple resilience curve shows that without restrictions in place, at week 1 2021 the sector would stop growing and participation would have recovered to -2% of the previous years throughput.
- >> With restrictions in place for 2 or 3 months, the participation curves would join the resilience curve at week 41 and 47 respectively.
- >> With a 6 month restriction this would happen at week 8 2021. In this scenario capacity would be reached at week 45 2020.
- >> In the week of reopening (July 4th, week 27), throughput starts at -59% compared to 2019 (without restrictions)



GROWTH CURVES: BY FACILITY TYPE

Health and fitness facility analysis

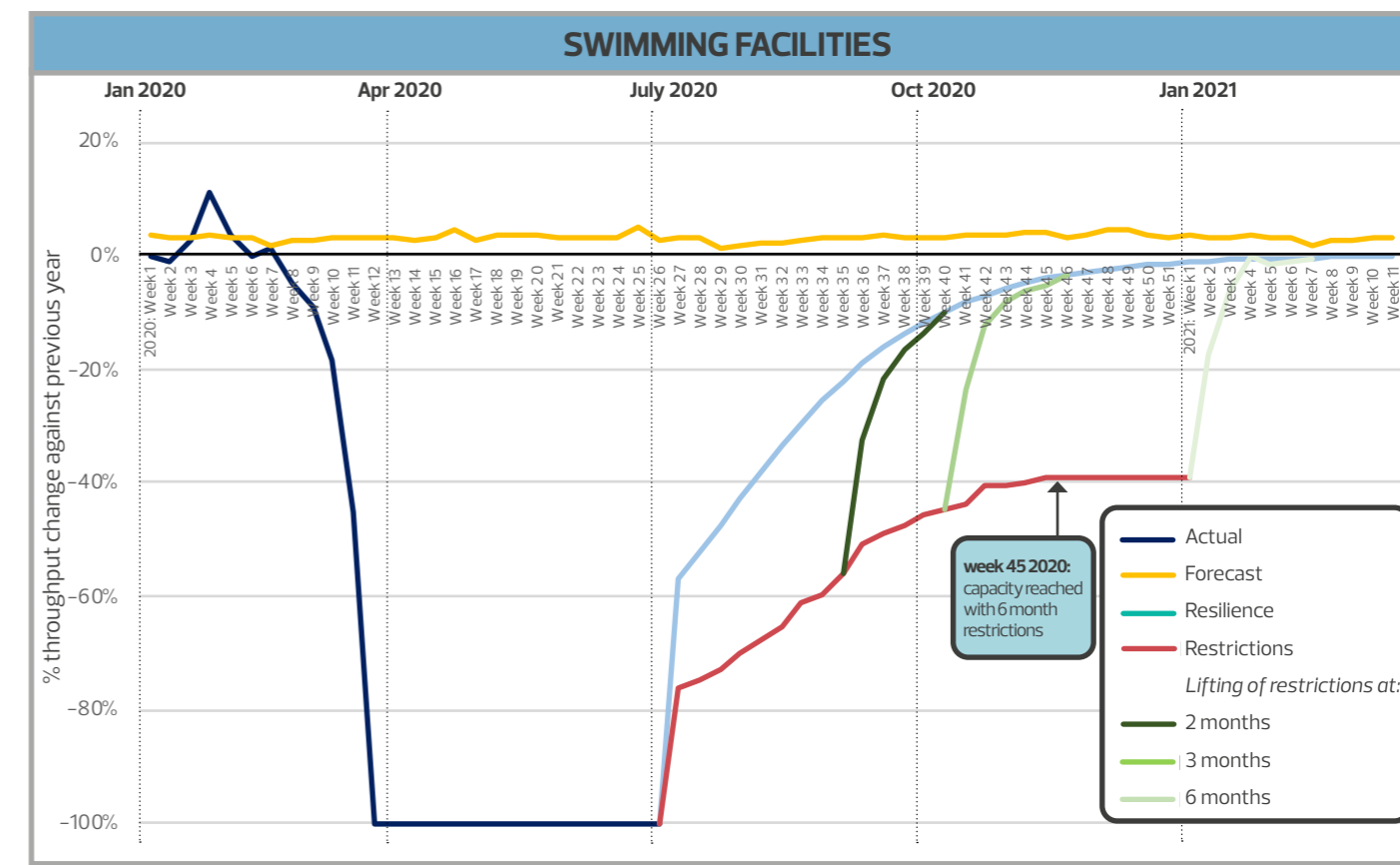
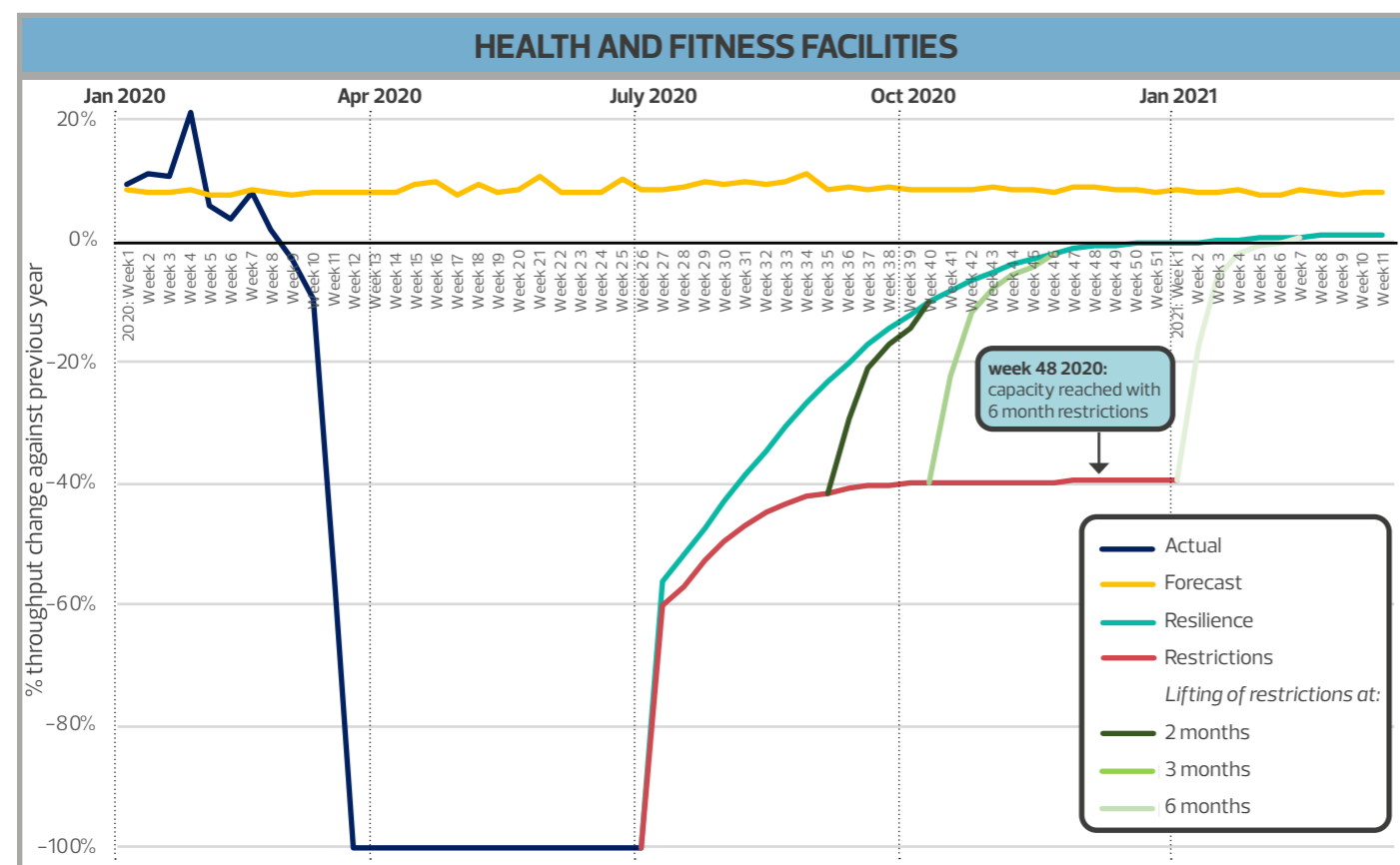
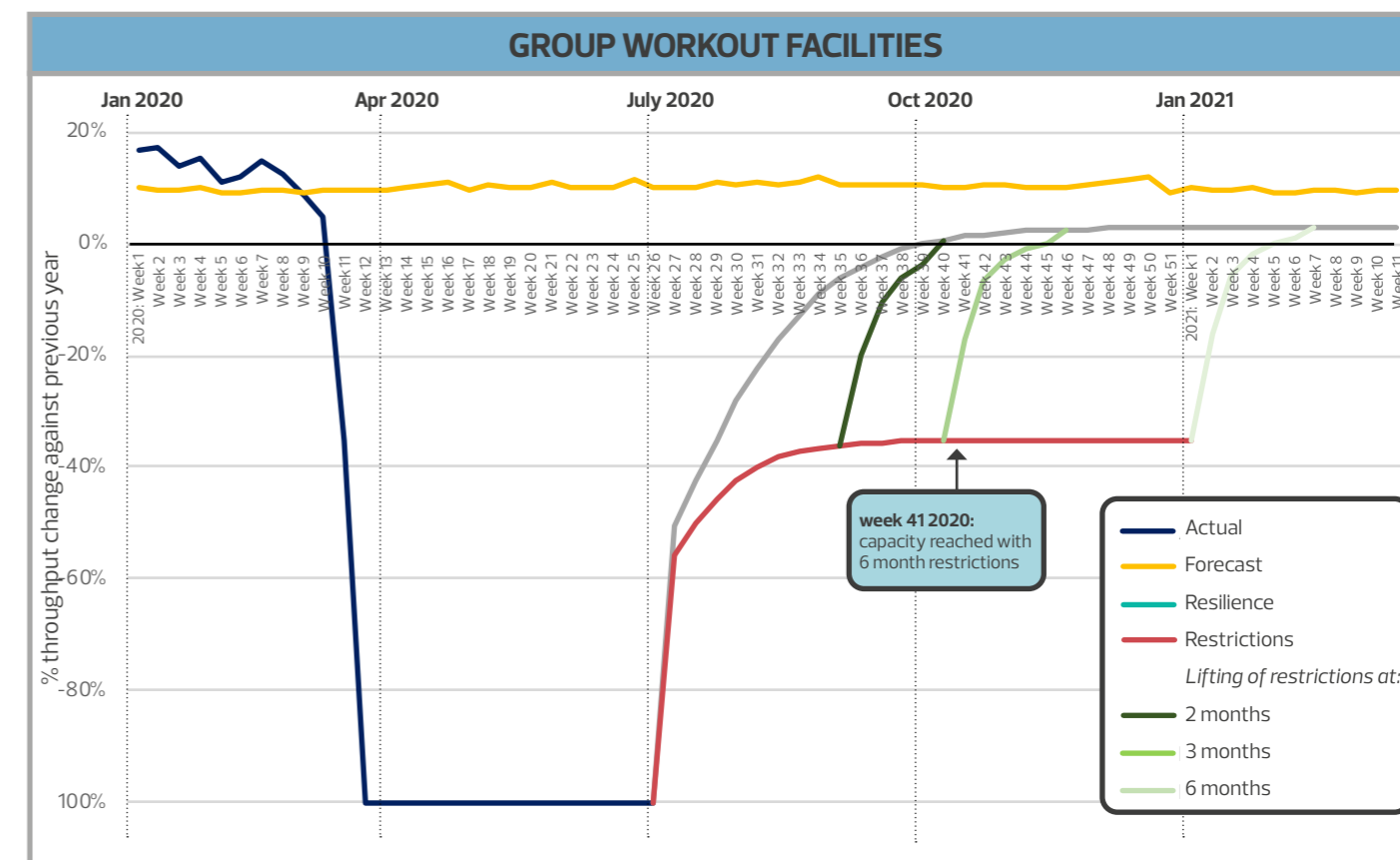
The health and fitness facilities, including cardio equipment rooms, free weight rooms and functional exercise rooms, are projected to be less resilient than group fitness, largely due to the profile of users and the lower consumer confidence expected in areas that are more difficult to clean and enforce social distancing. In the 4-6 weeks following the opening, restrictions are expected to have limited impact on the growth of demand for this facility type, however the two lines diverge as customer confidence grows and capacity of facilities is reached.

Group workout facility analysis

Group exercise studios are expected to be the most resilient of all the facility types within leisure centres and gyms, largely due to the young average age of participants. The steep growth curve also reflects customer confidence data, which is expected to be driven by a clearer understanding of social distancing and cleaning processes within studio facilities.

Swimming facility analysis

The impact of the facility restrictions on the growth of swimming demand is projected to be significant, largely due to the removal of swimming lessons but also due to the restriction of participants aged over 70, who are heavy users of pool space. Taking restrictions into consideration, the growth of demand for pool facilities is projected to be slower than other major facility types.





IMPACT ON THE SECTOR

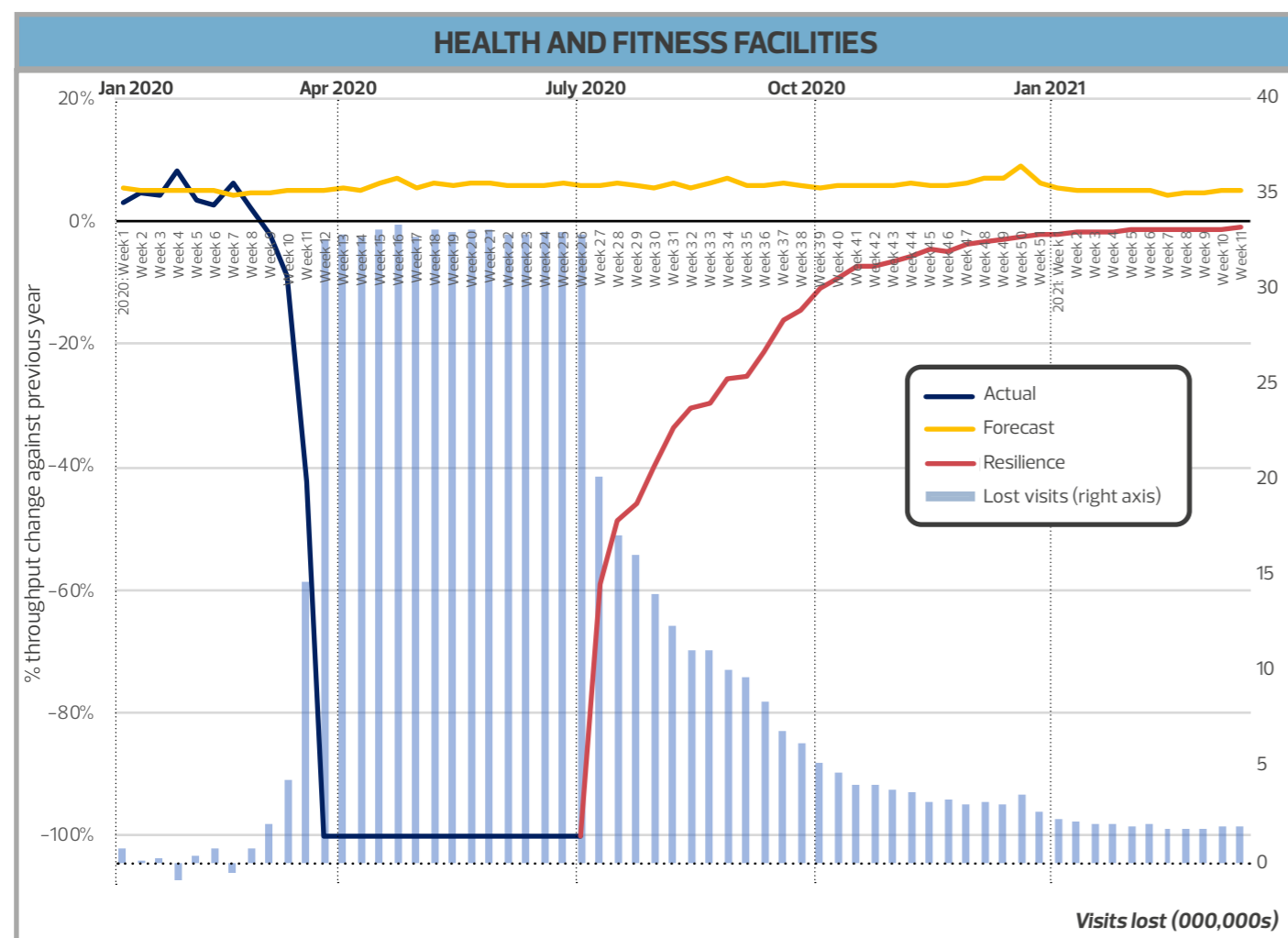
The total impact on the sector of COVID-19 is projected to be extreme. Mapped against the projected growth curve (without restrictions), the bar chart shows the total loss of visits to leisure centre, gyms and fitness facilities in 2020, compared with the projection for the year. Overall, it is predicted that there will be 707,266,931 less visits to facilities in the full year following lockdown than the projected figure. To evaluate the impact of the growth curve not meeting the 2020 sector projection by the end of the 12-month period, there is expected to be 1,034,268 fewer people using facilities in week 11 of 2021 than would be expected. This assumes no restrictions are in place.

>> In week 11 2021, one year after lockdown, the projected number of lost visits in that week against a forecast without COVID-19, is 1.8 million.

>> These visits would come from a projected 1.0 million users.

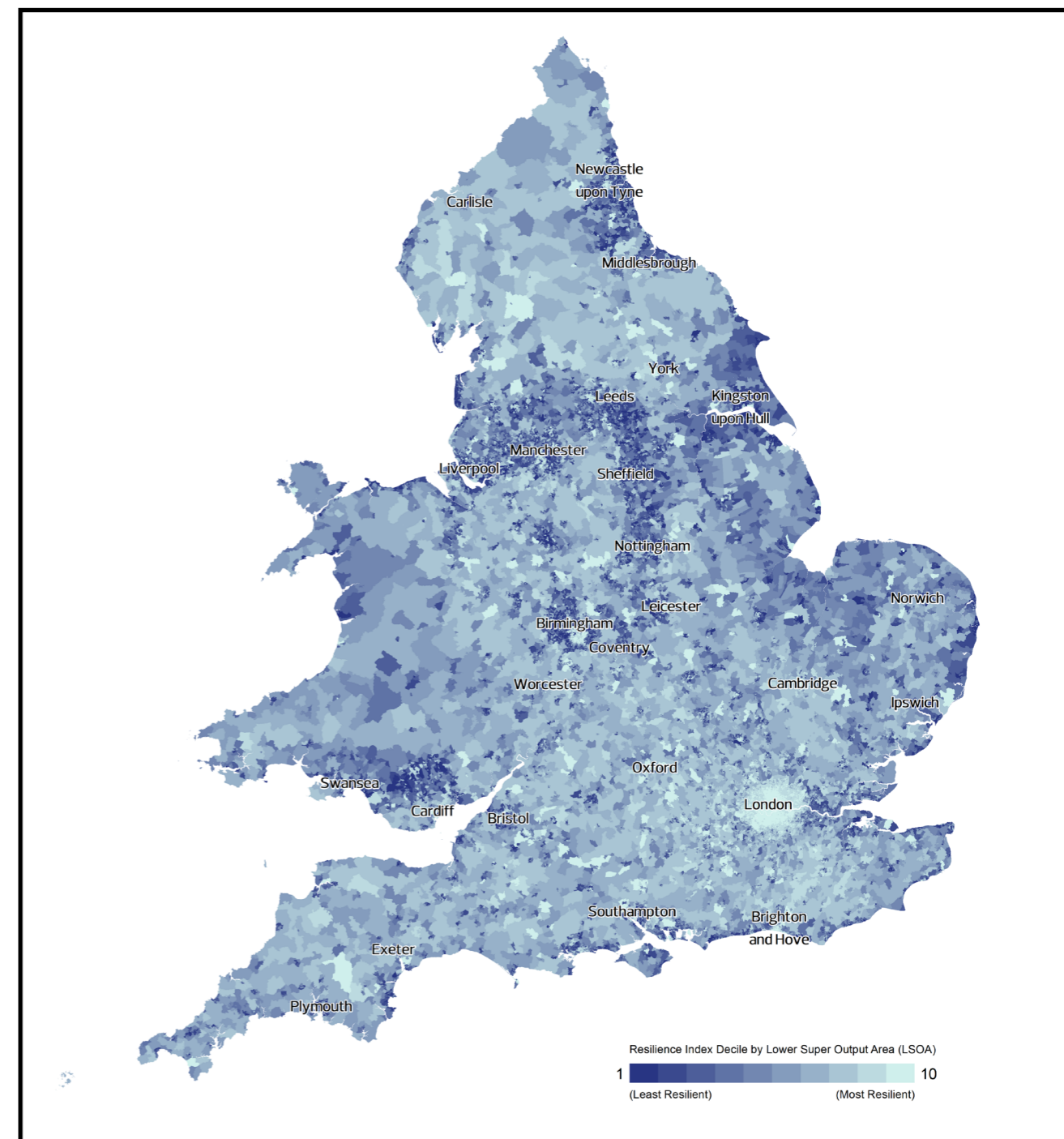
>> Across a full year following lockdown (until week 11 2021), there is a projected loss of over 700 million visits

>> These visits would come from a projected 390 million users.



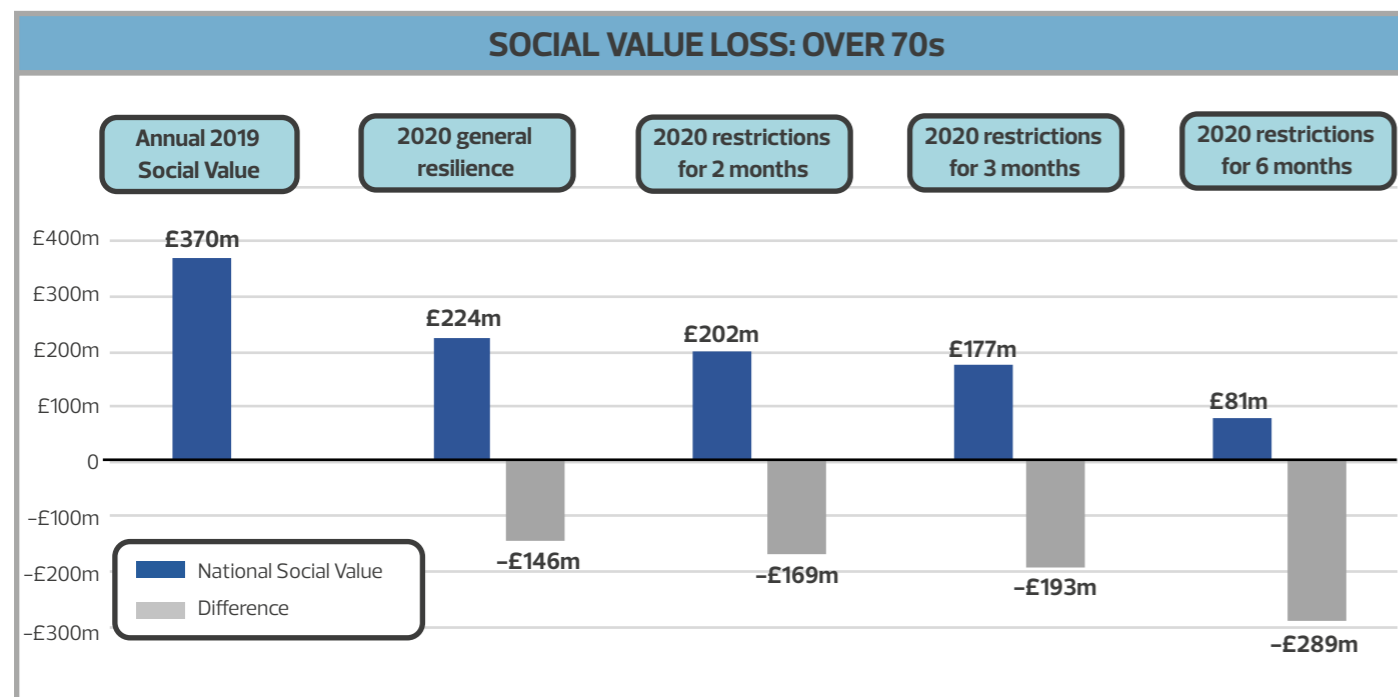
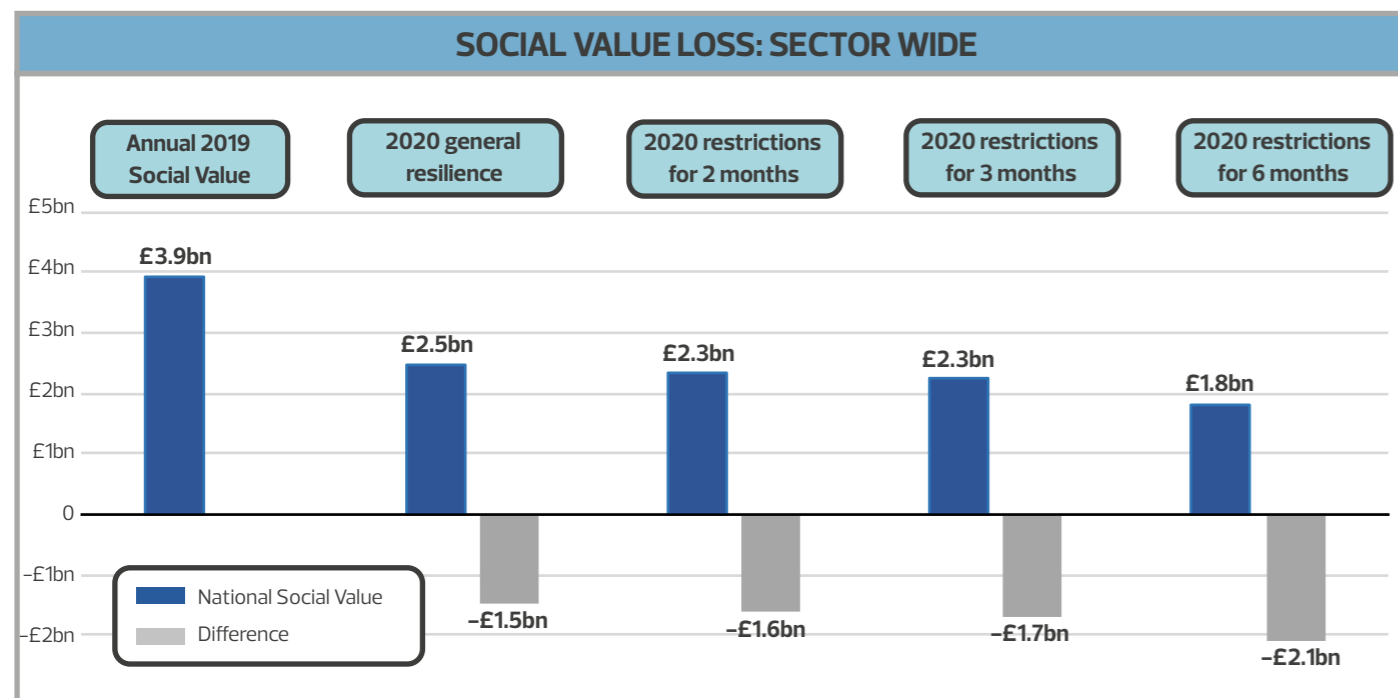
IMPACT ON DIFFERENT GEOGRAPHIES

A spatial impact analysis indicates not all parts of the country will be impacted equally by COVID-19, with the discrepancies likely to be driven by the demographic profile, age and deprivation of the local population. The map illustrates the areas (identified by the darker colours) that are likely to see the greatest negative impact, in terms of throughput at relevant facilities. A snapshot of this analysis has been taken at week 35 of 2020, however a dynamic map will be available for further analysis [here](#).



## SOCIAL VALUE

COVID-19 will have a huge impact on the ability of the sector to improve the health and wellbeing of the nation. The total social value of the sector in 2019, as calculated using the DataHub's Social Value Calculator, was almost £4 billion, of which £370,000 was generated by those over the age of 70. Depending on the amount of time that COVID-19 restrictions are in place for, the projected reduction in social value generated by the sector is significant, with over £2 billion lost as a worst case scenario, £289 million of which will be as a result of restrictions placed upon participants aged over 70. For more information on the DataHub's Social Value Calculator please visit [here](#).



## KEY STATS



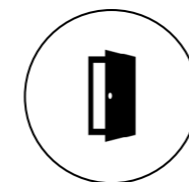
### FORECAST

Without COVID-19, the forecast growth in participation for 2020: **5.7%**



### SECTOR GROWTH

If no restrictions were in place, the point at which the sector will stop growing (participation curve would flatten): **Week 1 2021 (25 weeks after reopening)**



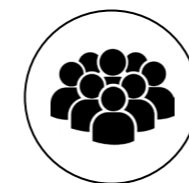
### POINT OF REOPENING

Percentage of throughput compared to 2019 at start point of recovery (July 4th): **-59%**



### GYM CAPACITY

Under restrictions for 6 months, the point at which gym will reach capacity: **Week 48 2020 (21 weeks after reopening)**



### GROUP WORKOUT CAPACITY

Under restrictions for 6 months, the point at which group workout will reach capacity: **Week 41 2020 (14 weeks after reopening)**



### SWIM CAPACITY

Under restrictions for 6 months, the point at which swim will reach capacity: **Week 45 2020 (18 weeks after reopening)**



### LOST VISITS

Total number of lost visits projected in the year following the start of lockdown: **707 million**. Reduction in number of people using facilities in the last week of the analysis period (2021 Week 11), than projected without COVID-19: **1.0 million**



### SOCIAL VALUE

Expected annual social value of the sector if COVID-19 hadn't happened: **£3.9 billion**  
 Projected loss of social value, as a result of COVID-19 if restrictions last 6 months: **£2.1 billion**

## A CALL TO ACTION

### ***An upward trend limited by restrictions***

The modelling has projected that as facilities are able to reopen under a set of potential operating restrictions, there will initially be a sharp upwards rise in participation as the first wave of members return. Following this initial sharp increase, participation will be capped by the potential restrictions which are applied to facilities. Consumer confidence in returning to gyms and leisure centres will continue to rise even whilst restrictions are in place and suppressing capacity, with the result that as restrictions are lifted– either at 2, 3 or 6 months– demand will rise quickly at this point. The longer the restrictions are in place, the quicker this recovery will be as consumer confidence continues to grow over time. However, the longer the restrictions are in place, the greater the number of projected lost visits, as full capacity will be reached if restrictions are in place for 6 months.

### ***Encouraging and enabling customer confidence***

In the coming days, weeks and months, as a sector we can continue to ensure we are fully ready, prepared and safely equipped to welcome members back to facilities once restrictions are lifted. As some international markets across the world start to reopen we can monitor and learn from what happens there. In terms of consumer confidence we can continue to explore what measures will make members and visitors feel comfortable in coming back to facilities. Operators can capitalise on this knowledge to get ahead of the curve, and ensure their customer base feels mobilised, confident, and enthusiastic about returning. The resilience curves used in this report are an overview for the entire sector, and the exact rate at which members return will be unique to each facility. This can be influenced through understanding customer needs and ensuring the correct provision is made for these.

### ***Re-purposing facilities and finding new efficiencies***

Further planning can be undertaken to ensure that, within the constraints of restrictions that are applied, the resources and space available at facilities is used to their full potential. Whilst traditional sports hall activities such as football or netball are not likely to be possible at first, the space offered by a sports hall may make an ideal alternative location for group exercise classes, allowing extra capacity for social distancing outside studio spaces.

### ***Understanding the impact on society***

In total lost visits are projected to reach over 700 million in the full year following lockdown (week 12 2020– week 11 2021). This is calculated based on a scenario without any restrictions in place. These lost visits will contribute to the deficit in social value generated by facilities across the sector. Under a full 6 month restriction length, the projected loss of social value would be £2.1 billion. The enormity of this figure serves to highlight the importance of the critical role that these facilities provide. This goes beyond the obvious physical and mental wellbeing effects of exercise to the individual; and extends to providing wider societal benefits through health care, education, wellbeing and crime cost savings to local communities.

### ***Attracting a new member base***

Further considerations which will emerge over time relate to how visit behaviour will differ once centres are reopened. With the majority of the workforce likely to be working from home, will the traditional peaks that have been seen at lunchtime and after the nine to five working day still exist, or will demand now be spread more evenly throughout the day to reflect flexible working patterns. Whilst there is potential to encourage new users, who may not have held a gym membership in the past but who have discovered a new penchant for sport and exercise during lockdown, there is also a need to adapt to the changed demands and preferences of members, some of whom will now want a seamless interchange between facility based exercise on some days and exercise at home on others.

### ***Looking forward***

Whilst there are still many unknowns about what the gradual reopening of society in the weeks and months ahead will look like, what is clear is the crucial role that the facilities and workforce in the health and fitness sector will have in providing and delivering physical activity to the public. At ukactive we will continue to lobby on the sector's behalf, guided by the latest research and insight, to give the Government the confidence it needs to recognise and support gyms and leisure centres as it further develops its reopening strategy. As part of the [ukactive four stage strategy](#) for the safe reopening of the sector– alongside the operator framework, public information campaign and policy support– the key areas of this report will be updated in order to provide the sector with the latest intelligence to guide decision making.

***For more information on anything in this report, or to access the online Communities of Learning platform, please get in contact through [clientservices@ukactive.org.uk](mailto:clientservices@ukactive.org.uk).***

***For further information on how COVID-19 may impact your specific facility, contract or locality, please contact [4global at research.team@4global.com](mailto:4global@research.team).***

## NEXT STEPS

The data and analysis that has been presented here is a snapshot of what is happening at this moment in time, using the information and knowledge that is currently available. There is no blueprint to follow for how the situation will unfold, and the uncertainty around how we will exit lockdown means that new information will emerge over time. Updates to the modelling will be published [here](#).

Once facilities are able to open their doors, it will be important to continue to monitor and track the recovery of the sector. This can be achieved initially through existing business intelligence channels, such as Business Performance Benchmarking, and Moving Communities trends reports. In order to ensure we have a clear live picture of what is happening in the sector, we are reinforcing our call for operators to share their participation data (in an aggregated and anonymised way with the DataHub), and contribute to the sector wide intelligence that we will be producing. This will ensure we have the most thorough and diverse data set possible in order to provide the sector with the most relevant and comprehensive insight.



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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## APPENDIX III



### Press statement from ukactive

For immediate release: Tuesday 23 June 2020

**ukactive has issued the following statement in response to the Government's [announcement](#) today (23 June) about the next phase of its reopening strategy**

Huw Edwards, CEO of ukactive, said: "ukactive has been in discussions with the Government today, in the period building up to the Prime Minister's announcement.

"Many people will be understandably frustrated by the decision not to reopen the fitness and leisure sector from 4 July.

"However, the Government has indicated that gyms and leisure facilities will reopen from [mid-July](#), subject to final agreement between health officials and our sector.

"In these discussions, we are completely confident in addressing any questions the Government and health officials may have, based on the comprehensive health and safety [guidance](#) we published and shared with the Government on 7 May.

"Furthermore, we have invited Government and health officials to visit any of the hundreds of gym and leisure centre show sites across the country, and witness how facilities would operate with thorough social distancing measures and hygiene standards in place.

"Our sector's safety standards are among the highest in Europe, where other nations have already reopened their gyms and leisure facilities safely.

"Any further delay to our reopening will threaten our nation's recovery from COVID-19. With obesity the second largest cause of hospitalisation from this virus, gyms and leisure centres are equipped to not only combat COVID-19, but to support rehabilitation for those recovering from the virus.

"Closed facilities cannot support that fight. Closed facilities will also worsen the health inequalities in this nation, especially as one in four members of public leisure facilities is from a BAME background, a community where health disparities from COVID-19 have been felt most.

"Any further delay to reopening would also have grave economic consequences, including the potential loss of 2,800 facilities and over 100,000 jobs.

"Greater Government engagement and clarity is now crucial. This is a health crisis, and this sector is safe to reopen and lead the fightback against COVID-19.

"Conversations will continue with Government this afternoon to establish a clear roadmap to reopening."



UK  
active

More people  
More active  
More often



We are ukactive >

## APPENDIX III

### About ukactive

ukactive is the UK's leading not-for-profit health body for the physical activity sector, with more than 4,000 members, from activity providers to major consumer brands, training facilities and equipment manufacturers. Members come from across the private, public and third sector and are united by ukactive's longstanding and uncompromising commitment to getting more people more active, more often.

ukactive facilitates high-impact partnerships, conceives and drives breakthrough campaigns, conducts critical research and galvanises key stakeholders to develop and deliver projects that support and champion the physical activity agenda. The organisation's efforts are centred on supporting a national ambition to "turn the tide of physical inactivity". For more information about ukactive, please contact Rob Gibson on 07585 253812, or [robgibson@ukactive.org.uk](mailto:robgibson@ukactive.org.uk)